

Statutory Report

Public statement by the Police Ombudsman pursuant to Section 62 of the Police (Northern Ireland) Act 1988.

Relating to public complaints:

INVESTIGATION INTO POLICE HANDLING
OF LOYALIST PARAMILITARY MURDERS
AND ATTEMPTED MURDERS IN SOUTH
BELFAST IN THE PERIOD 1990-1998

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1.0

Introduction

- 1.1. The early 1990s saw an escalation in violence attributed to the Ulster Defence Association (UDA), operating under the pseudonym of the Ulster Freedom Fighters (UFF). Whenever it carried out a terrorist attack, the UDA used the cover name UFF when claiming responsibility. The UFF were proscribed in November 1973 but the UDA was not proscribed as a terrorist organisation until August 1992. I consider that the UDA and UFF were the same organisation. For the purposes of this public statement, it shall be referred to as the UDA/UFF.
- 1.2. Between late 1990 and the spring of early 1994, the main period during which the murders examined as part of this investigation occurred, the UDA/UFF are believed to have been responsible for 56 murders in Belfast. A total of 20 of these were committed in South Belfast. In comparison, during the three and a half years immediately preceding this period, the UDA/UFF committed 21 murders in the Greater Belfast area, of which four were in South Belfast.
- 1.3. In January 2014, my predecessor, Dr Michael Maguire, commenced an investigation into a series of murders and attempted murders carried out by the 'South Belfast' Brigade of the UDA/UFF during the 1990-1998 period.
- 1.4. This document is a public statement detailing the actions, decisions, and determinations together with the reasons and rationale for the conclusions I have reached. This investigation has been concerned with public complaints that members of the Royal Ulster Constabulary (RUC) may have *colluded* with loyalist paramilitaries in a series of murders which occurred in the South Belfast area. The members of the public who brought these complaints to my Office believe that this alleged *collusion* manifested itself in the police failing to prevent the attacks through the exploitation of available

intelligence, and through the police failing to conduct effective investigations of the murder.

1.5. This investigation examined RUC conduct in relation to nine loyalist paramilitary attacks. These attacks resulted in twelve murders and one attempted murder between 1990 and 1998. All the victims were Catholic:

- I. The attempted murder of Mr Samuel Caskey on 9 October 1990;
- II. The murder of Mr John O'Hara on 17 April 1991;
- III. The murder of Mr Harry Conlon on 14 October 1991;
- IV. The murder of Mr Aidan Wallace on 22 December 1991;
- V. The murders of Mr Coleman Doherty, Mr Jack Duffin, Mr Peter Magee, Mr William McManus and 15 year old James Kennedy on 5 February 1992;
- VI. The murder of Mr Michael Gilbride on 4 November 1992;
- VII. The murder of Mr Martin Moran on 23 October 1993 (died 25 October 1993);
- VIII. The murder of Mrs Theresa Clinton on 14 April 1994; and
- IX. The murder of Mr Larry Brennan on 19 January 1998.

1.6. Dr Maguire identified a number of evidential, suspect, and intelligence links connecting the above attacks. He decided these interconnections merited a thematic enquiry into the series of attacks.

1.7. This public statement does not include the details of the investigation of police conduct relating to the murder of Mr John O'Hara on 17 April 1991. That is due to criminal proceedings relating to the murder which are ongoing at the time of publication. A public statement in relation to the findings and conclusions about this matter will be issued at an appropriate time.

1.8. Although there have been convictions in respect of associated matters, no individual has been convicted for any of these murders or attempted murders.

1.9. The principal elements of this investigation were as follows:

- I. The RUC response to intelligence, where it was available, that victims may have been under threat prior to their murders;
- II. The RUC's knowledge of the origins and history of firearms that were used in the attacks;
- III. Where relevant to the investigation, the recruitment and management of informants by the RUC in Belfast;
- IV. The handling and exploitation of intelligence by the RUC; and
- V. The conduct of the related RUC investigations.

1.10. This investigation generated more than 900 investigative actions which included:

- I. Reviewing RUC material in relation to each attack which also included forensic files;
- II. Conducting over 70 interviews with former officers and other witnesses;
- III. Commissioning independent forensic examinations of a number of weapons;
- IV. Reviewing over 5,000 pieces of RUC intelligence in respect of the attacks and related issues;
- V. A significant quality assurance exercise following the widely-reported non-disclosure issues on the part of PSNI in 2019; and
- VI. Liaison with the Public Prosecution Service (PPS) for advice.

1.11. A number of former police officers with whom my investigators would have wished to make enquiries are deceased. Other officers were unable, or

declined, to assist with this investigation. However, a number of retired officers assisted my investigation. I thank those who took the time to assist with this investigation.

- 1.12. The complaints were accepted for investigation under Section 52 of the Police (Northern Ireland) Act 1998 (1998 Act). However, Section 52(9) of the 1998 Act provides *'If any conduct to which a complaint wholly or partly relates is or has been the subject of disciplinary or criminal proceedings, none of the following provisions of this Part shall have effect in relation to the complaint in so far as it relates to that conduct.'*
- 1.13. The Royal Ulster Constabulary (Complaints etc) Regulations 2001 (the Regulations) set out the requirements which must be met for a complaint received under 52(1) of the 1998 Act to be investigated. Those requirements include 5(3)(f) of the Regulations which provides *'the complaint has not otherwise been investigated by the police.'* Therefore, my Office was not empowered to investigate any criminal allegations that had been investigated previously by Lord Stevens.¹ In the absence of new evidence, I am unable to reinvestigate those matters. Where relevant, I have addressed this prohibition in this public statement.
- 1.14. This investigation has informed my views in respect of the allegations that the families have made concerning the attacks. These allegations include:
- I. that the attacks were preventable;
 - II. that related RUC investigations were ineffective; and
 - III. that the RUC colluded with Loyalist paramilitaries, including informants, during the period 1990 - 1998.

¹ In 1989, John Stevens, the then Deputy Chief Constable of Cambridgeshire Constabulary, was appointed to lead the first of three inquiries he conducted into allegations of collusion between the security forces and loyalist paramilitaries in Northern Ireland. His investigation led to the arrest of Brian Nelson in 1990 and his subsequent conviction in 1992.

- 1.15. In line with my presumptive policy to neither confirm nor deny the status of any informant, I have not recorded which agencies managed any particular informants referred to in this public statement. Throughout this and other public statements, references were and will be made to 'informants'. Any such references should not be automatically considered as informants which were managed solely by the RUC.
- 1.16. A draft of this public statement was sent to PSNI, PPS, MOD and Security Services for fact checking. PSNI were also asked to undertake an Article 2 risk assessment. Responses were received and where I considered it appropriate, these have been reflected in this public statement.

2.0

Background to the Complaints

2.1. My Office received a number of public complaints between 2007 and 2010 from the families of the victims and survivors of the murders and attempted murders considered in this investigation. No public complaint was received in respect of the murder of Mr Aidan Wallace. However in 2014 the evidence obtained in relation to other matters led my predecessor, Dr Maguire, to use his statutory powers of 'own motion' investigation pursuant to Section 55(6) of the 1998 Act to commence an investigation into this murder. More recently my Office also received a public complaint in respect of this case. Central to many of the complaints were the following allegations:

- I. Police failed to prevent the attacks;
- II. Police failed to conduct effective investigations of the incidents;
- III. Police protected certain individuals from investigation and/or prosecution;
- IV. A loyalist arms importation in the late 1980's was assisted by the security forces, including members of the RUC, and the weapons from that importation were subsequently used in the attacks; and
- V. The cumulative effect of these activities amounted to *collusion* between loyalist paramilitaries and members of the RUC.

The Attempted Murder of Samuel Caskey

2.2. On 9 October 1990 at 8:20pm, Mr Samuel Caskey was shot when walking to his parents' home at 8 Dromara Street, situated in the Lower Ormeau Road area of Belfast. The route taken by Mr Caskey took him through an

entry linking Artana Street with Dromara Street, where he was shot in the back.

- 2.3. Mr Caskey managed to run from the scene and found his way to a nearby house at Balfour Avenue, where he remained until the arrival of an ambulance and police. No organisation claimed responsibility for this shooting. Neither has any person been prosecuted for the attack.

The Murder of Harry Conlon

- 2.4. Mr Harry Conlon was employed as a driver for STS Taxis of Avoca Park, Andersonstown. On the 14 October 1991 at approximately 9:00pm, he was dispatched to two locations from his base. Following the first fare, it is believed that Mr Conlon collected a fare from the Devenish Arms Inn at Finaghy Road North, Belfast, to be conveyed to the Errigle Inn, Ormeau Road.

- 2.5. At 10:17pm, Mr Conlon was found in the area of Finnis Drive, Belfast, in his taxi having sustained fatal gunshot wounds.

- 2.6. In a subsequent telephone call to the BBC, the UDA/UFF claimed responsibility for the murder of Mr Conlon, stating they were *“not involved in a campaign against taxi drivers but wish to state that the taxi firms of STS, Brooke and Apollo are openly involved with the Republican movement in surveillance and intelligence work in Loyalist areas of South Belfast.”*

- 2.7. No person has been prosecuted in connection with the murder.

The Murder of Aidan Wallace

- 2.8. Mr Aidan Wallace was murdered on 22 December 1991. At 1:56pm, two gunmen entered the Devenish Arms Inn, Finaghy Road North, Belfast, and indiscriminately opened fire at customers and staff in the public bar and

snooker/pool area. Mr Wallace was fatally wounded and three others, including an eight year old boy, sustained gunshot wounds.

- 2.9. Police believed that the gunmen escaped in a blue Vauxhall Cavalier, which had been stolen earlier from Chapel Hill, Lisburn. The car was recovered at 3:15pm that same day at Locksley Place, Finaghy.
- 2.10. On the evening of 22 December 1991, an anonymous caller, using a recognised codeword, rang the BBC and stated: *“The UFF admit responsibility for an attack on the Devenish Arms at Finaghy Road North. The UFF wish to state that the sole responsibility for the UFF carrying out such attacks lies with the IPLO and PIRA who over the last number of months have carried out a systematic sectarian murder campaign against loyalists. The UFF refute allegations that an 8 year old was deliberately shot in the attack. Our volunteers wish to make that clear”.*
- 2.11. No person has been prosecuted for the murder of Mr Wallace. However, on 6 May 1992 police recovered a 9mm Browning pistol used in the attack from two men who were known to be associated with the UDA/UFF. It was recovered from Person ZZ and Person AAA, one of whom was convicted for possession of the weapon and sentenced to seven years’ imprisonment.
- 2.12. Intelligence received by the police indicated that the attack on the Devenish Arms Inn was in retaliation for an Irish Peoples Liberation Organisation (IPLO) attack at the Donegall Arms, on 21 December 1991, during which two Protestant men were murdered. Three other men were also injured in this attack two of whom were allegedly members of South Belfast UDA/UFF.

The Attack at Sean Graham Bookmakers

- 2.13. On 5 February 1992, a total of 15 customers and members of staff were in Sean Graham Bookmakers, Ormeau Road, Belfast, at 2:30pm, when two masked men entered the premises and discharged two firearms. These

firearms were later identified as a VZ58 automatic assault rifle and a Browning semi-automatic pistol.

- 2.14. As a result of this attack four men, Mr Coleman Doherty, Mr Jack Duffin, Mr Peter Magee, Mr William McManus and 15 year old James Kennedy died. A number of other people were also injured in the attack.
- 2.15. The two gunmen responsible for the attack were described as having approached Sean Graham Bookmakers from the direction of University Avenue and fled by the same route. They fled the scene in a blue Ford Escort car, driven by a third man, parked on University Avenue. The car was later recovered at Bladon Drive, in the Stranmillis area of Belfast.
- 2.16. At 5:30pm on 5 February 1992, the following message was received by the BBC from an anonymous caller using a recognised UDA/UFF codeword: *“This afternoon UFF volunteers carried out an operation on members of the most active unit of PIRA which is based in the Lower Ormeau / Markets area. This area has become a cesspit of Republicanism and as such the UFF targeted Sean Graham’s. The UFF are confident that at least two well-known players have been executed. Remember Teebane.”*
- 2.17. No one has been prosecuted for the murders or attempted murders. Person AA was charged in connection with the attack, but the charges were subsequently withdrawn by the DPP due to issues associated with identification and forensic evidence.
- 2.18. On 18 February 1992 the VZ58 assault rifle used in this attack was recovered at the home of Person A, who was associated with the UDA/UFF. He was charged and convicted for possession of the weapon and sentenced to 22 years imprisonment.

- 2.19. It was established that the 9mm Browning pistol used in the attack at Sean Graham Bookmakers was the same weapon used in the murder of Mr Wallace on 22 December 1991.

The Murder of Michael Gilbride

- 2.20. On 4 November 1992, Mr Gilbride arrived outside his parents' home, where he often had lunch. As he got out of his car, a gunman discharged three shots at Mr Gilbride causing fatal injuries. The gunman was believed to have fled on foot through an unoccupied house at Fernwood Street, situated directly opposite the murder scene, and into a rear alley.
- 2.21. Shortly before 1:00pm on 4 November 1992, an RUC patrol heard three shots in the Ormeau Road area of South Belfast. The officers responded and found Mr Gilbride lying on the road behind his Honda Acclaim car, which was parked outside his parents' home at Fernwood Street.
- 2.22. In an anonymous telephone call to the BBC at 2:55pm on the same day, a caller using a recognised codeword, claimed the attack on behalf of the UDA/UFF: *"The UFF admit lunchtime assassination of Michael Gilbride who was a member of the Republican Movement involved in targeting loyalists"*.
- 2.23. No person has been prosecuted in connection with the murder of Mr Gilbride.

The Murder of Martin Moran

- 2.24. On 23 October 1993 at 11:40pm, a Chinese Restaurant on Dublin Road, Belfast received a telephone call placing an order for a takeaway meal to be delivered to a property at Vernon Court, Belfast. The caller gave no name. The takeaway was delivered by Mr Martin Moran, who was driving a Ford

Sierra Estate which he had borrowed from an associate. Mr Moran had worked for the restaurant as a delivery driver for one month.

- 2.25. Mr Moran arrived at the address shortly before midnight. He knocked on the door, waking up the occupants who were in bed. The occupant heard three gunshots as he got out of bed and immediately telephoned police. The police arrived shortly thereafter and found Mr Moran lying on the doorstep of the delivery address. He had sustained three gunshot wounds and was taken to Belfast City Hospital where he died from his injuries on 25 October 1993.
- 2.26. The murder of Mr Moran was not claimed by any organisation. In light of the intelligence held by police, I am of the view, that this was a sectarian murder, carried out by loyalists in retaliation for the bombing of Frizzell's Fish Shop on the Shankill Road less than 12 hours earlier.
- 2.27. No person has been prosecuted in connection with Mr Moran's murder.

The Murder of Mrs Theresa Clinton

- 2.28. On 14 April 1994 at 11:35pm, a man who was wearing a crash helmet and holding a rifle, entered 18 Balfour Avenue in the lower Ormeau Road area. The family, who lived in the house retreated to the rear of the property. As they telephoned the emergency services, they heard a burst of gunfire, followed by the sound of a car driving away at speed. Shortly afterwards, the family discovered that the living room window of their neighbour's house at 16 Balfour Avenue had been smashed.
- 2.29. At the time of the attack, Mr James (Jim) Clinton, his wife Mrs Theresa Clinton and their children were the occupants of 16 Balfour Avenue. Mr Clinton was in his bedroom when he was woken by the sound of glass breaking. He ran onto the landing of his house and shouted to his wife who had been in their living room watching television. As Mr Clinton called out,

he heard his wife scream, followed by gunfire. Mr Clinton ran downstairs and found his wife lying on their settee, fatally injured. A concrete block had been used to smash his living room window.

2.30. On 15 April 1994 at 12:27am, a reporter at the BBC received an anonymous telephone message from a caller using a recognised UDA/UFF codeword: *“The UFF claim responsibility for the assassination of Sinn Fein/PIRA member Jim Clinton within the past hour. Our volunteers after failing to gain entry through the window sprayed the house with gunfire seriously injuring Clinton’s wife”.*

2.31. No person has been prosecuted in connection with Mrs Clinton’s murder.

The Murder of Larry Brennan

2.32. Mr Lawrence (Larry) Brennan was employed as a driver for Enterprise Taxis, located at 244 Ormeau Road, Belfast. At approximately 7:20pm on 19 January 1998, Mr Brennan left the depot in his Toyota Carina car, which was parked on the Ormeau Road.

2.33. As he was sitting in the driver's seat, Mr Brennan was shot through the driver's side window and was fatally wounded. The gunman then crossed the Ormeau Road, and fled on foot along Deramore Avenue.

2.34. No paramilitary group claimed responsibility for the murder of Mr Brennan. On the evening of 20 January 1998, the RUC received information that an anonymous telephone caller had claimed that *‘the Spanish Republican Party’* was responsible for the murder. The RUC researched this claim but their enquiries revealed that this organisation did not exist. Police concluded that the call was a hoax.

- 2.35. Police intelligence indicated that the attack was carried out by South Belfast UDA/UFF, in direct response to the Irish National Liberation Army (INLA) murder of a member of that organisation earlier the same day.
- 2.36. No person has been prosecuted in connection to Mr Brennan's murder.

Summary

- 2.37. The attacks which are central to this public statement involved planning and targeting of members of the Catholic community in the South Belfast area. These attacks were sectarian in nature and, in some instances, indiscriminate.

3.0

Scope and Terms of Reference of the Police Ombudsman's Investigation

- I. Informed by the public complaints, the following terms of reference were devised: Establish if a member of the RUC or agent of the RUC may have been culpable in any of the murders, or other incidents, consolidated within this investigation, including the supply of information, withholding evidence, assisting offenders or other obstruction, whether passive or direct interference, of related police investigations;
- II. Establish if the RUC were in possession of intelligence which, if acted on may have prevented any of the murders or other incidents;
- III. Establish if the RUC investigation of the murders or other linked incidents were adversely impacted upon by the non-dissemination of intelligence or otherwise obstructed;
- IV. Establish if all reasonable lines of enquiry were pursued by the RUC in respect of the dissemination of intelligence and if not; assess the quality of the wider RUC investigation with a particular emphasis on suspect strategies, intelligence and forensic (including ballistic dimensions) opportunities;
- V. Establish if the RUC had agents in positions of leadership within the UDA/UFF and/or other paramilitary groups linked to that organisation who may have influenced or had knowledge of the activities of the South Belfast UDA/UFF or had access to information relevant to their activities;
- VI. Establish if the RUC had access to intelligence from other agencies relating to the activities of the South Belfast UDA/UFF

- and/or other paramilitary groups linked to that organisation, on which they failed to act;
- VII. Identify missed investigative opportunities by the RUC, including strategic linking of murders and other relevant incidents that may have impacted on the continued operation of the South Belfast UDA/UFF and paramilitary organisations linked to that group, and whether if such opportunities had been acted on subsequent murders may have been prevented; and
- VIII. If criminality, serious misconduct or other failings by any members of the RUC are evidenced, identify individual accountability, extending to RUC senior management, where such conduct was of a repeated, serious or widespread nature.

Allegations of *collusion* are a feature of the public complaints. In order to properly address this issue, I have considered the various definitions of *collusion* provided by the court, judges overseeing tribunals and inquiries, and also former Police Ombudsmen. There is no definitive definition of '*collusion*'. *Collusion* has been described as 'having many faces'² The term has been described as being anything from deliberate actions to a more passive 'wait and see' attitude or looking the other way and keeping a discrete if not malicious silence.³

A number of independent enquiries and investigations have sought to define or describe what constitutes *collusion* in this context. In his first inquiry report into alleged *collusion* with paramilitaries and state security forces, Lord Stevens stated that *collusion* can be evidenced in many ways and '*ranges from the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder*'.

² Doctor Russell, H 2017, *The Use of Force and Article 2 of the ECHR in Light of European Conflicts*, Hart Publishing, Oxford & Portland Oregon.

³ A. Lüdtkke, *Everyday Life in Mass Dictatorship: Collusion and Evasions* (Palgrave Macmillan, 2015) Ch. 1

He further stated that:

'the failure to keep records or the existence of contradictory accounts can often be perceived as evidence of concealment or malpractice. It limits the opportunity to rebut serious allegations. The absence of accountability allows the acts or omissions to go undetected. The withholding of information impedes the prevention of crime and the arrest of suspects. The unlawful involvement of agents in murder implies that the security forces sanction killings'.⁴

Canadian Judge Cory was tasked to decide whether there was sufficient evidence of *collusion* between the state security forces and those responsible for the murder of Chief Superintendent Breen and Superintendent Buchanan to warrant a public inquiry. In his report (October 2003) he stated

'[h]ow should collusion be defined? Synonyms that are frequently given for the verb to collude include: to conspire; to connive; to collaborate; to plot; to scheme; The verb connive is defined as to deliberately ignore; to overlook; to disregard; to pass over; to take notice of; to turn a blind eye; to wink; to excuse; to condone; to look the other way to let something ride.....'⁵

In 2004, Judge Cory undertook a review of the Patrick Finucane case in order to decide if there was sufficient evidence to warrant a more detailed inquiry. In his 2004⁶ report he reprised his earlier definition of *collusion* and stated that there must be public confidence in Government agencies and that there can be no such confidence when those agencies are guilty of *collusion* or connivance. For these reasons he stated that any definition of *collusion* must be broad. For example, he stated '*army and police forces*

⁴ Stevens Enquiry 17 April 2003

⁵ Cory Collusion Inquiry Report: Chief Superintendent Breen and Superintendent Buchanan (SO 2003) para 2.55

⁶ Cory Collusion Inquiry Report: Pat Finucane'(SO 2004) para 1.39

must not act collusively by ignoring or turning a blind eye to the wrongful acts of their servants or agents. Supplying information to assist them in their wrongful acts or encouraging them to commit wrongful acts. Any lesser definition would have the effect of condoning or even encouraging state involvement in crimes, thereby shattering all public confidence in these important agencies.'

Judge Peter Smithwick proposed the following definition of *collusion* –

*'the issue of collusion will be considered in the broadest sense of the word. While it generally means the commission of an act, I am of the view that it should also be considered in terms of an omission or failure to act. In the active sense, collusion has amongst its meanings to conspire, connive or collaborate. In addition I intend to examine whether deliberately ignored a matter, turned a blind eye to it or pretended or unawareness of something that one ought morally, legally or officially to oppose.'*⁷

In her book on The Use of Force and Article 2 of the ECHR in Light of European Conflicts,⁸ Dr Hanna Russell refers to Sir Desmond de Silva's definition of *collusion* in his report of the Review of Patrick Finucane (SO 2012, 1.23) as the preferred definition;

- I. 'Agreements, arrangements or actions, intended to achieve improper, fraudulent or underhand objectives', and*
- II. deliberately turning a blind eye or deliberately ignoring improper or unlawful activity'*

⁷ Report of the Tribunal of Inquiry into Suggestions that Members of An Garda Síochána or other Members of the State Colluded in the Fatal Shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Robert Buchanan on 20th March 1989 (Dublin: The Stationery Office, 2013), Para 1.7.7.

⁸ Doctor Russell, H 2017, *The Use of Force and Article 2 of the ECHR in Light of European Conflicts*, Hart Publishing, Oxford & Portland Oregon.

Previous Police Ombudsmen have relied on the Judge Cory and Judge Smithwick definitions of *collusion* when applying them to the facts of particular murders of the Troubles. Al Hutchinson described *collusion* as something which may or may not involve a criminal act. I broadly concur with their views. I am also mindful of judgment of the then Lady Justice Keegan⁹ at paragraph 44 of *Re Hawthorne and White's Application*, she stated:

*'Collusion is another feature of the historical landscape. Whilst this term denotes sinister connections involving State actors it is not a criminal offence in itself. It has also been notoriously difficult to achieve a universal, accepted definition. In this case the definition adopted was that of Judge Smithwick which frames the concept in the broadest sense emphasising that it includes legal and moral responsibility.'*¹⁰

I have carefully considered each of the definitions and there are areas of overlap and also different emphasis. While these definitions are useful and recognising that there is no definitive definition of 'collusion.' I have identified a number of common features, as follows:

- I. *Collusion* is context and fact specific;
- II. It must be evidenced but is often difficult to establish;
- III. *Collusion* can be a wilful act or omission;
- IV. It can be active or passive (tacit). Active *collusion* involves deliberate acts and decisions. Passive or tacit *collusion* involves turning a blind eye or letting things happen without interference;
- V. *Collusion* by its nature involves an improper motive;

⁹ Appointed as The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland (September 2021)

¹⁰ [2018] NIQB 94, at para 44

- VI. *Collusion* if proven can constitute criminality or improper conduct (amounting to a breach of the ethical Code of the relevant profession); and
- VII. Corrupt behaviour may constitute collusion.

In the context of my role as Police Ombudsman, I am mindful that different Ombudsmen have applied varying definitions of *collusion* to the facts of each complaint or case. I do not intend to rehearse all of these definitions, but I am in favour of a broad definition of *collusion* which applies to both acts and commissions which can encompass collaboration and agreements or connivances as well as the more passive *'turning a blind eye.'*

In June 2016, the former Police Ombudsman for Northern Ireland, Dr Michael Maguire, applying the Smithwick definition, found *collusion* in respect of the actions of police in relation to the Loughinisland atrocity. His public statement was challenged as being *'ultra vires'*¹¹ by the Northern Ireland Retired Police Officers Association (NIRPOA) and after prolonged legal proceedings, the Northern Ireland Court of Appeal delivered its judgment on 18 June 2020. It was determined that the role of the Police Ombudsman as provided for in Part VII of the 1998 Act was investigatory and not adjudicatory in nature. Decisions as to whether a police officer's actions amounted to criminality or misconduct were decisions for other fora such as the criminal courts or a disciplinary panel.

Paragraph 40 of the judgment states:

'It is clear that the principal role of the Ombudsman is investigatory. The complaint defines the contours of the investigation and in this case informed the terms of reference about which no complaint has been made. There is no power or duty created by the statute for the Ombudsman to assert a conclusion in respect of criminal offences or disciplinary misconduct by

¹¹ Definition of *ultra vires* is acting or done beyond one's legal power or authority.

police officers. The Ombudsman is required to provide recommendations to the DPP if he considers that a criminal offence may have been committed. Such a recommendation is a decision which could form part of a PS. Once he makes such a recommendation he has no role thereafter apart from supplying information on request.'

The Court in explaining the legal framework in the 1998 Act outlined at Paragraph 43,

'That framework specifically excluded any adjudicative power for the Ombudsman in the determination of criminal matters or disciplinary matters. The confidence of the public and police force was to be secured by way of the independence, efficiency and effectiveness of the investigation coupled with an adherence to the requirements of the criminal law before any finding of a criminal offence could be made against a police officer and the conduct of a disciplinary hearing with all the protections afforded within that system before disciplinary misconduct could be established. The thrust of the appellants' case is that the statutory scheme would be undermined if the Ombudsman was entitled to use section 62 as a vehicle for the making of such findings. We agree that the legislative steer is firmly away from the Ombudsman having power to make determinations of the commission of criminal offences or disciplinary misconduct but will address later how this affects the content of a PS.'

At paragraph 55 the Court outlined the powers of the Police Ombudsman in respect of officers, where there was question of criminality and also possibility of a disciplinary process, where for example a police officer had resigned or as in this case the officer was retired as follows -

'There may well be circumstances, of which this appeal may be an example, where a police officer will have resigned as a result of which the officer would no longer be subject to any disciplinary process. By virtue of section 63(1)(e) of the 1998 Act the Ombudsman has limited powers in a PS to identify a

person to whom information relates if it is necessary in the public interest. That is a strict test. We accept that a person can be identified by inference, a so-called jigsaw identification. We do not consider that the power to make a PS provides the Ombudsman with the power to make determinations in respect of retired officers. We accept, however, that the statutory scheme does enable the Ombudsman in respect of such officers to indicate what recommendations might have been made, what reasons there were for the making of such recommendations and whether disciplinary proceedings would have been appropriate.'

In relation to the Police Ombudsman role in deciding on a case where there was a complaint by the family of *collusion* in that case, the Court clarified at paragraph 63 as follows:

'Apart from the passages set out at paragraph 4.200, 9.9 and 9.40 the nine chapters of the substantive PS provide what the Ombudsman stated as paragraph 1.12, namely as comprehensive a narrative as possible. The determinations he made in the three offending paragraphs were not in our view decisions or determinations to which section 62 applied and overstepped the mark by amounting to findings of criminal offences by members of the police force. The remaining paragraphs were part of the narrative. We do, however, accept that in light of the families' complaint in the context of Article 2 it would have been appropriate for the Ombudsman to acknowledge the matters uncovered by him were very largely what families claimed constituted collusive behaviour.'

My conclusions in respect of the allegations of *collusion* are outlined later in this public statement.

4.0

Relevant Law and Standards

- 4.1. The Association of Chief Police Officers (ACPO) first published a *'Murder Investigation Manual'* in September 1998. This set out a framework for murder investigations and is designed to aid and guide the Senior Investigating Officer (SIO) throughout the investigation process. However, this was not in place at the time of the murders and attempted murders that are the subject of this public statement.
- 4.2. The RUC implemented the *'Major Investigation Incident Room Standardised Administrative Procedures'* (MIRSAP) on 1 January 1984. This formalised management structures and processes within Major Incident Rooms, acknowledging that it was essential for major investigations to have a structure of management which was immediately recognisable and understood by all police officers.
- 4.3. MIRSAP was designed to provide the SIO with *'an accurate record of all relevant information relating to the investigation, together with the enquiries made and results obtained.'* The system was also responsible for *'recording and linking all information...so that it may be readily retrieved to aid the SIO and their team to establish priorities. This will ensure that all enquiries are made efficiently, and the results analysed.'*
- 4.4. The recording of information entering Major Incident Rooms was undertaken by a standardised manual procedure known as MIRSAP.¹² In

¹² MIRSAP (Major Incident Room Standardised Administrative Procedures) was a paper-based enquiry management system that pre-dated the computerised HOLMES system.

March 1988, the RUC introduced a computerised system known as HOLMES¹³, for the investigation of serious crimes.

4.5. My investigators established that these procedures were implemented during the investigation into the murders and attempted murders examined during this investigation. An SIO and DSIO were appointed and Major Incident Rooms (MIR) were set up. Investigative actions were raised and allocated to individual officers.

4.6. The Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988 applied at the time of this investigation. These regulations detailed that Offence 4 – ‘Neglect of Duty’ was committed where a police officer without good and sufficient cause:

- a. *‘Neglects or omits to attend to or carry out with due promptitude and diligence anything which it is his duty as a member to attend to or carry out;*
- b. *Fails to work his beat in accordance with orders, or leaves the place of duty to which he has been ordered, or having left his place of duty for an authorised purpose fails to return thereto without undue delay;*
- c. *Is absent without leave from, or is late for, any duty; and*
- d. *Fails properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.’*

4.7. At the time of the murders and attempted murders examined during this investigation, there was no RUC Code of Ethics in place for police officers. However, the overarching duty of police was, and remains, to protect life and property. When considering matters of police conduct in this public statement, I have applied the relevant standards of the time.

¹³ HOLMES was introduced in 1985 and is the acronym for Home Office Large Major Enquiry System. It is an administrative support system that was primarily designed to assist Senior Investigating Officers in their management of the complexity of investigating serious crime.

RUC Guidance regarding the Weapons and Explosives Research Centre (WERC)

- 4.8. The Weapons and Explosives Research Centre was a unit within 'E' Department (Special Branch) within the RUC, and was established in 1981. The relevant RUC Force Order in place at the time of the attacks reference in this public statement was Force Order 1/91¹⁴ entitled '*Weapons and Explosives Research Centre*'. The Force Order set out the functions and structure of the unit, and placed a dual responsibility on WERC, as both a police controlled ballistics unit and an investigative agency, which primarily focused on terrorist orientated weapons and explosive matters. WERC also had a responsibility to monitor and assess the use of radio and ancillary equipment which was used by the various terrorist factions within Northern Ireland.
- 4.9. In a report to the Coroner dated 5 December 2013, PSNI explained that *The primary function of WERC was to examine all exhibits from crimes involving the use of firearms, including bullets and cartridge cases, recovered firearms and other ancillary items. The purpose was to build an intelligence picture around which particular firearms were being used in various incidents...The work was done to evidential standards, but reported as intelligence. They said intelligence provided investigative leads for CID in respect of individuals or small groups suspected of being involved in the said crimes.'*

¹⁴ Replaced by Force Order 45/97

RUC Guidance and Legislation regarding Threats to Life

- 4.10. The RUC Force Order at the time in respect of warning individuals at risk was set out in Force Order 33/86 entitled, *'Threats against the Lives of Members of the Security forces, VIPs or other Individuals'*. This stated that when a threat was received *'Local Special Branch (SB) concerned will inform the Sub-Divisional Commander (SDC) in whose area the subject resides or works and the SDC will take whatever action he wishes necessary. If the information received indicates that an attack on any person is imminent, the member receiving the information will immediately take all necessary action to inform the person at risk.'* On 3 July 1991, it was replaced by Force Order 60/91, which contained the same instructions as quoted above.
- 4.11. The Force Order placed a clear responsibility on the local RUC Sub-Divisional Commander to assess whether threat warnings to identified individuals, were necessary. If the threat against the individual was considered imminent, in accordance with the Force Order, a threat warning should then be issued. If the threat was not considered imminent, the Sub-Divisional Commander could take whatever action they considered appropriate.
- 4.12. As stated previously in this public statement, this investigation sought to establish what assessment was undertaken by police to determine whether it was necessary to notify identified individuals of the existence of threats against them. I am of the view that upon receipt of intelligence of an imminent threat to the life of an identifiable individual, the State's obligations under Article 2 of the ECHR were engaged, meaning that the police had a duty to take steps to protect the lives of those identified.
- 4.13. There was a responsibility on local police commanders, under the Force Order, to make informed and accountable decisions in respect of threat warnings. However, the police commanders were reliant on RUC Special

Branch (SB) sharing the relevant threat intelligence with them. This investigation has identified a number of failings in respect of the sharing of such information and intelligence. However, the lack of relevant records has made it difficult to identify personal culpability for such failings.

Guidance & Legislation on Police Recruitment and Management of Informants

- 4.14. When considering the use of police informants in this series of attacks, I have considered the relevant legislation and guidance available to the RUC at the time. The events examined as part of this investigation pre-date the Human Rights Act 1998, which came into force on 2 October 2000 and the Regulation of Investigatory Powers Act 2000 (RIPA), which commenced on 24 September 2000. These pieces of legislation together with the Investigatory Powers Act 2016 and The Covert Human Intelligence Source (Criminal Conduct) Act 2021, now provide a statutory framework within which police have to work and in particular in their recruitment and management of informants.
- 4.15. Prior to that, the guidance on the use of informants was largely unchanged from that provided by the Home Office Circulars of 1969 (*‘Informants who take Part in Crime’*), and the later Home Office Circular 35/1986 (*‘Consolidated Circular to the Police on Crime and Kindred Matters’*).
- 4.16. The Home Office Circulars were promulgated primarily to deal with future crimes and allow for the use of participating informants provided:
- I. ‘neither the informant nor the police can counsel, procure or incite the commission of a crime;
 - II. the informant’s role remains minor; and
 - III. his involvement is designed to frustrate the crime and arrest the principals.’

- 4.17. It is now widely accepted that this guidance was never intended to, nor sufficiently adequate to, deal with the terrorist situation which existed in Northern Ireland between 1969 and 1998.
- 4.18. SB did not adopt the Home Office guidelines because they believed that they were inadequate to address the issues concerning the handling of informants within paramilitary organisations. This investigation has considered efforts from 1987-1993 to address the issue of informant management in Northern Ireland during the period subject to investigation.
- 4.19. Correspondence from the RUC to the Northern Ireland Office (NIO), dated 21 January 1987, stated that *'The [Home Office] Guidelines take no cognizance at all of the special problems relating to Northern Ireland. They were, of course, drawn up to deal with 'ordinary' criminals in a mainland context, rather than for coping with terrorists. Given our special situation the restrictions placed upon us by virtue of the guidelines are unrealistic if we are to continue paramilitary penetration/CHIS protection.'*¹⁵
- 4.20. It is evident that most senior RUC officers, including the Chief Constable, knew that colleagues involved in the authorisation and management of informants felt exposed and vulnerable. This was why clarity, in the form of appropriate legislation and/or guidance, was sought from the British Government.
- 4.21. Senior Government figures, up to ministerial level, were aware of the issues. The RUC were becoming increasingly frustrated by the perceived lack of enthusiasm to progress these issues.

¹⁵ Letter from the RUC to the NIO, 21 January 1987 Ch 4.16 p76 The late Sir Desmond de Silva QC Report.

- 4.22. An internal NIO minute to the Permanent Under Secretary, dated 18 May 1987, however, stated that *‘As we may well wish to see a rather different method for reviewing the guidance, it will suit us if the process set in train by the RUC makes fairly slow progress, but it would not be wise to take any steps at this juncture to halt it; we should simply desist from hastening it.’*¹⁶
- 4.23. These frustrations were shared by their colleagues in the military and Security Service. A note from the Prime Minister’s Office to the NIO, dated 13 May 1988, stated that the Director General of the Security Service had raised the need for agent-handling guidelines with the Prime Minister.¹⁷
- 4.24. In March 1992, following revelations concerning Brian Nelson’s role as a state informant, Sir John Blleloch carried out a review¹⁸ which looked at the recruitment and handling of military informants in Northern Ireland. This also took account of the practices and procedures adopted by SB and the Security Service.
- 4.25. His Terms of Reference indicated that, where appropriate, any recommendations should also apply to the RUC. The review’s findings were summarised in an internal minute from the Security Service Legal Advisor, dated 25 March 1992. It stated that *‘Blleloch has indicated that the Home Office Guidelines are unacceptable in a counter-terrorist context and that the NIO Working Group Guidelines.... are about as good as can be achieved. He has indicated that he would not wish to advocate different procedures if they entailed legislation as he believed legislation would be politically unobtainable. Blleloch has also indicated that he is not sure that Ministers (particularly the Home Secretary) will approve the Guidelines for fear that they may involve them in allegations of*

¹⁶ NIO submission, Deputy Under Secretary to Permanent Under Secretary, 18 May 1987 as referred to in de Silva paragraph 4.38, p76.

¹⁷ Cabinet Office file, Anglo-Irish relations, Prime Minister’s Office to Private Secretary NIO, 13 May 1988 as referred to in the late Sir Desmond de Silva QC report Para 4.48, p79.

¹⁸ The Blleloch Review, de Silva, P83-84.

conspiratorial criminality. He is, however, prepared to endorse the Guidelines in his report.'

4.26. Sir John Blleloch's report was circulated by the then NIO Permanent Secretary, Sir John Chilcott, on 15 July 1992. He issued a range of recommendations for the more effective management and handling of informants in Northern Ireland. However, he concluded that the issue regarding appropriate legislation and/or guidance was one he was not able to resolve.

4.27. He stated that *'Nothing has emerged in the context of this new review of agent handling [reference to NIO Working Group Guidance summarised below] to suggest that the content of the draft Guidelines...should be revised. The problem is one of the status of the document, and, specifically, the extent of Ministerial approval. The need to clarify this status seems to the review team to be a matter of some urgency now, and, moreover, one that will not go away...'*¹⁹

4.28. A Northern Ireland Office (NIO) Working Group devised a revised set of guidelines which by March 1992 had been adopted by the RUC. They stated at paragraph 4 that,

'The Informant must clearly be instructed that his employment or continued employment as an Informant does not carry with it immunity from criminal prosecution. In particular, he should be warned that he should not expect to avoid criminal proceedings if he is detected committing or having committed any physical assaults, or attacks on property causing serious damage, or acts of extortion. Moreover, no police officer will counsel, incite or procure the commission of such a criminal offence. However, subject to Paragraph 5 below, an officer may employ a person as an Informant whom he believes to be engaged in

¹⁹ The Blleloch Review, The late Sir Desmond de Silva QC Report, paragraph 4.63 – 4.65, p83 & 84.

criminal activities, provided that at the time of employing him he is satisfied that;

- a. The Informant is likely to be able to provide information concerning offences involving risk of death or injury to persons, serious damage to property, extortion, or offences connected with financing terrorism;*
- b. The required information cannot readily be obtained by any other means; and*
- c. The need for the information that may be obtained by the employment of that person as an Informant justifies his employment notwithstanding the criminal activities on which he may be engaged.*

The employment of an Informant believed to be engaged in criminal activity must be specifically authorised by an officer not below the rank of Assistant Chief Constable. It must be reviewed...'²⁰

4.29. This guidance made reference to the responsibilities of both informants and those police officers tasked with their management. It outlined the circumstances in which an informant could be recruited and that any participation in crime had to be authorised by an Assistant Chief Constable. Although this guidance did not contain the detail which the RUC sought and was not supported by legislation, it was adopted by police in Northern Ireland.

4.30. Over the next years, a number of high level reviews urged resolution of the issue. In 1992, Sir Nicholas Lyell QC, the then Attorney General, wrote a significant response regarding information and source liability. Sir John Chilcott chaired an Inter-Departmental Working Group (IWG) in late 1992. He summarised its conclusions to the Secretary of State on 14 July 1993. *'The present situation is not satisfactory. The existing law appears to*

²⁰ The late Sir Desmond de Silva QC report, paragraph 4.55, p81.

*leave the Agents, Handlers, and others involved in the intelligence process, including Ministers, unduly exposed. This has practical drawbacks (in terms of our ability to run agents, who are vital to our work against terrorism) as well as political and ethical ones. There is much that can be done, and should be done on a non-statutory basis to improve matters...the Blelloch recommendations will help...so will further elaboration of the existing schemes of guidance and regulation within agencies, based around a common core understanding both of the law and of best practice. Nonetheless, a stable and satisfactory way forward which is fair to Agents, Handlers and others could only be achieved by new legislation.'*²¹

- 4.31. In his 2012 report on the Patrick Finucane Review, the late Sir Desmond de Silva QC stated that, *'It is absolutely clear that there was no adequate Agent handling guidance or direction whatsoever in the late 1980s. The 1969 Home Office Guidelines had not been designed for a counter-terrorism situation and had, rightly, been discarded...In such circumstances the UK Government had a duty to provide an effective statutory framework and clear policy direction. The issue was considered at Cabinet level and Government Ministers were clearly aware that Agents were being handled in Northern Ireland without reference to any adequate guidelines because no such framework existed. Ministers nonetheless continued to place a high priority on pursuing an intelligence led approach to the terrorist threat. What was required was a clear statutory recognition that agents must be run at the heart of terrorist groups; some recognised limits as to the extent to which agents could become involved in criminal enterprises; and a rigorous regulatory framework to prevent abuse.'*²²

- 4.32. The problem became less of a priority following the 1994 republican and loyalist paramilitary ceasefires and was partially resolved by the

²¹ The late Sir Desmond de Silva QC Report paragraph 4.71, p86.

²² Ibid 4.86, Page 90

introduction of the Human Rights Act in 1998 and RIPA in 2000. The late Sir Desmond de Silva summed up the unique circumstances faced by security forces in Northern Ireland as having represented a *'...wilful and abject failure by the UK government to put in place adequate guidance and regulation for the running of agents.'*²³

²³ The late Sir Desmond de Silva QC Report, paragraphs 4.86 to 4.89, p90 – 91.

5.0

The Origins, Use, and Recovery of Weapons Used in the Attacks

- 5.1. Central to this investigation has been the examination of the origins, use, recovery, and disposal of weapons used in the attacks which are the subject of this public statement.
- 5.2. In June 2016, my predecessor, Dr Maguire, issued a public statement concerning the murders of six men at the Heights Bar, Loughinisland, County Down, on 18 June 1994. Part of this public statement detailed his investigation and findings relating to police actions associated with the loyalist importation of weapons and ammunition into Northern Ireland in December 1987 by the UDA/UFF, Ulster Volunteer Force (UVF), and Ulster Resistance.
- 5.3. I am of the view, based on the evidence and intelligence reviewed during this investigation, that a VZ58 assault rifle which formed part of this importation, was used in the attack at Sean Graham Bookmakers by the South Belfast UDA/UFF.

The Loyalist Firearms Importation

- 5.4. In his public statement regarding the Loughinisland murders Dr Maguire stated that, by June 1987, the RUC had received intelligence indicating that a loyalist coalition of the UDA/UFF, UVF, and Ulster Resistance had finalised plans for the importation of a large quantity of weapons into Northern Ireland. The consignment consisted primarily of VZ58 assault rifles ('AK47s') and Browning type 9mm semi-automatic pistols. By late October 1987 Persons C and D, two members of Ulster Resistance, were

reported to have told associates that they would not have to wait much longer for the weapons.

- 5.5. Police were aware that the UDA/UFF leadership held a meeting on 4 January 1988, where a senior member stated that the arrival of weapons from the arms importation was imminent.
- 5.6. Police were aware on 7 January 1988 that loyalist paramilitaries had taken possession of weapons which included VZ58 assault rifles and 9mm pistols.
- 5.7. On the evening of 7 January 1988, police followed a senior UDA/UFF member and Person E from Belfast UDA/UFF Headquarters to Portadown. They were joined there by Person D who is believed to have played a central role in the importation. At that time, he was under military surveillance.
- 5.8. Persons D, E, and the senior UDA/UFF member then met with other senior loyalist paramilitaries at a location in the Portadown area, where they discussed the distribution of the weapons. Person E assumed responsibility for taking possession of the UDA/UFF share of the weapons.
- 5.9. On the morning of 8 January 1988 a three-vehicle convoy, consisting of Person E and two other individuals, drove from Belfast to a car park in Tandragee, where they met a fourth individual. Police surveillance teams had followed the convoy from Belfast to the car park in Tandragee. The four individuals then exited the car park in their respective vehicles, whereupon police became '*unsighted*' as to their whereabouts a short time later.
- 5.10. Dr Maguire's investigation established that Person E and the other individuals drove to a farm near Markethill, owned by James Mitchell. Once there, they loaded their vehicles with weapons from the arms importation.

- 5.11. In his public statement, Dr Maguire was of the view that there had been an unexplained failure by police not to search the farm which '*permitted the prompt undetected removal of the remaining weapons.*' He concluded that the proximity of the Mitchell farm to Tandragee, combined with intelligence held by police about previous loyalist paramilitary activities at that location involving James Mitchell, should have resulted in police searching it.
- 5.12. Shortly before midday on 8 January 1988, the police surveillance teams located Person E and the first two individuals again, travelling in the same three-vehicle convoy towards Portadown. They were stopped by police at Mahon Road, Portadown, and Person E and his associates were arrested.
- 5.13. When their vehicles were searched, police recovered 61 VZ58 assault rifles, 30 Browning type 9mm pistols, 150 hand grenades, and a significant amount of ammunition.
- 5.14. Police described Person E as a senior Belfast UDA/UFF member. He was subsequently convicted of various firearms offences and imprisoned, as were the other two individuals.
- 5.15. On 4 February 1988, police searched a property at Flush Road, North Belfast. They recovered 38 VZ58 assault rifles, 17 Browning pistols, 100 hand grenades, a RPG7 rocket launcher, and an amount of ammunition.
- 5.16. Police subsequently received intelligence, following the Mahon Road arrests, that James Mitchell had received a '*tip-off*' that police intended to search his farm. This resulted in the remaining firearms being moved to another location.
- 5.17. In his public statement concerning the Loughinisland murders, Dr Maguire referred to a SB report, dated 11 February 1988, which stated that '*The arrests and seizures (at Mahon Road) were brought about as the result of*

a covert operation mounted from Special Branch HQ over a period of months and culminating with the above arrests on 8 January. Over a protracted period a secret, reliable and well-placed source within the higher echelons of the UDA had been reporting the existence of a major arms acquisition operation being conducted by the UDA on behalf of that organisation, the UVF and Ulster Clubs (Ulster Resistance)...'

The VZ58 Assault Rifles

- 5.18. The recovery of 99 VZ58 assault rifles, and other weapons and ammunition at Mahon Road and Flush Road, represented a partial success for the Security Forces. This prevented a number of weapons imported into Northern Ireland in 1987 by Loyalist paramilitaries being used to carry out sectarian attacks.
- 5.19. At Dr Michael Maguire's request, the PSNI reviewed the use and recovery of VZ58 assault rifles in Northern Ireland. In 2018 the PSNI reported their findings to my Office. In addition to confirming that police had recovered 61 VZ58s at Mahon Road, Portadown on 8 January 1988, and had seized 38 of the rifles at Flush Road on 3 February 1988, the PSNI reported the following:
- I. 144 VZ58 weapons (in total) have been recovered by police in Northern Ireland since 1988;
 - II. 124 of the above VZ58 weapons are suspected by police of not having been used prior to recovery;
 - III. 18 VZ58s have been fired but have not been seized by police.

It follows that at least 162 VZ58 assault rifles were imported to Northern Ireland by Loyalist paramilitaries, of which 38 were used in various incidents, including murder, between 1988 and 2005.

- 5.20. The PSNI report establishes ballistic links between the use of VZ58 weapons, the murders of 70 persons and the attempted murders of numerous other members of the public.
- 5.21. It is possible that some, if not all, of the 18 VZ58 assault rifles used by loyalist paramilitaries between 1988 and 2005, but not seized by police, and other VZ58s that were neither used nor recovered, may have been destroyed during the decommissioning of paramilitary weapons, overseen by the Independent International Commission on Decommissioning (IICD).²⁴

The Browning 9mm Pistols

- 5.22. Police seized 47 Browning type 9mm pistols at Mahon Road and Flush Road in early 1988. They had serial numbers ranging between 44651 and 46995, all of which were prefixed by 'L'.
- 5.23. In addition to these weapons a further 34 Browning pistols, with 'L' serial numbers falling within the prescribed range, have since been recovered in Northern Ireland. Of these, 21 have been forensically linked to 11 attacks attributed to loyalist paramilitaries.
- 5.24. The 9mm ammunition recovered at Flush Road bore a headstamp that identified the manufacturer but not the batch or consignment. Ammunition of this type had first been used in Northern Ireland in 1984. The headstamp could not, therefore, be solely attributed to ammunition that formed part of the 1987 loyalist arms importation.

²⁴ The IICD published their final report on 4 July 2011 (their official remit having come to an end on 8 February 2010). On the same day the Northern Ireland Office issued a ministerial statement observing that between September 1997 and February 2010 the IICD provided a 'mechanism, entirely independent of government, to execute the decommissioning of paramilitary arms in a manner that rendered them permanently inaccessible or unusable...The IICD did not provide the British and Irish governments with an inventory when they submitted their final report...(but) made arrangements for the safe retention of the records of decommissioned arms by the United States Department of State in Washington.' This ended a process during which the UVF and Ulster Political Research Group (UPRG), on behalf of the UDA had announced, in June 2009 and January 2010 respectively that they had decommissioned their weapons.

- 5.25. Without recovering the relevant weapon, it was not possible to confirm whether a Browning 9mm pistol, which formed part of the 1987 loyalist arms importation, had been used in a particular attack. This investigation has not identified a forensic link between the use of a Browning 9mm pistol originating from the loyalist importation, and any of the attacks outlined in this public statement.
- 5.26. In his public statement regarding the Loughinisland murders, Dr Maguire outlined enquiries undertaken by this Office to establish '*whether any members of the RUC were involved in, or had knowledge of, the circumstances in which loyalist paramilitaries acquired VZ58 assault rifles, semi-automatic Browning type pistols and other weapons in 1987.*' This was primarily concerned with the origins of the VZ58 assault rifle used in the attack at the Heights Bar, Loughinisland.
- 5.27. This investigation has given further consideration to the 1987 loyalist arms importation. It has specifically examined the acquisition of the VZ58 assault rifle by the South Belfast UDA/UFF, which was used in the Sean Graham Bookmakers attack. This was in the context of additional information disclosed by the PSNI to my Office²⁵ in late 2018 which detailed the extent of the surveillance operation mounted by the security forces between 7 and 8 January 1988; additional enquiries undertaken by the police following the arrest at Mahon Road, Portadown; and subsequent police operations, which resulted in recovery of weaponry originating from the importation.
- 5.28. I am of the view that a VZ58 assault rifle which arrived in Northern Ireland in late 1987 as part of a loyalist arms importation was used by the South Belfast UDA/UFF in the murders of Coleman Doherty, Jack Duffin, James Kennedy, Peter Magee, and William McManus. The serial number of this

²⁵ This information came to the attention of the former Police Ombudsman, Dr Maguire, as a result of civil proceedings brought by the families of the Sean Graham Bookmakers attack against PSNI.

weapon fell within the sequence of other VZ58 rifles subsequently recovered by police. For this reason I conclude that they all originated from the same importation.

- 5.29. My predecessor, Dr Maguire, established that the individuals responsible for the importation and distribution of these weapons, which were later used in at least 80 murders, were never subject to police investigation. His investigation also established that a number of these individuals were, or subsequently became, police informants.

Other Weapons used in the Attacks

- 5.30. Weapon 1 – A Browning 9mm pistol, of military origin, that was used in the attempted murder of Mr Caskey. It had previously been used in two murders in 1988, and another incident in 1989. To date, this weapon has not been recovered.
- 5.31. Weapon 2 – A .455 calibre Webley revolver that was used in the murder of Mr Conlon. It had no history of previous use but was subsequently used in a murder in 1993. To date, this weapon has never been recovered.
- 5.32. Weapon 3 – A .357 Magnum/.38 special calibre revolver that was used in the murders of Mr Wallace and Michael Gilbride. It had previously been used in a murder in 1990. To date, this weapon has never been recovered.
- 5.33. Weapon 4 – A .38 calibre Enfield revolver that was used in the murder of Mr Moran. It had no history of previous use and was recovered by police in early September 1994 during a search in the Rathcoole area. This weapon was forwarded to RUC Weapons Control on 30 December 1996. Its whereabouts, thereafter, cannot be accounted for.
- 5.34. Weapon 5 – A reactivated 9mm Sterling sub-machine gun, with no previous history, was used in the murder of Mrs Clinton. In 1993,

'Birmingham Proof House', a nationally certified firearms proofing establishment certified this weapon as being inoperable. This investigation has been unable to establish how this weapon came to be reactivated and in the possession of the UDA/UFF. It was recovered by police the day after Mrs Clinton's murder during a search in the Annadale Embankment area. This firearm was recovered by this investigation from the PSNI Weapons Reference Collection.

- 5.35. Weapons 4 and 5, used in the murders of Mr Moran and Mrs Clinton, respectively, had previously been commercially deactivated. However, loyalist paramilitaries had established the means to acquire and re-activate these weapons. SB failed to disseminate intelligence concerning these activities, including the identities of those involved. As a result, the police investigations relating to the murder of Mrs Clinton and Mr Moran were unaware of the source of a number of the weapons involved and did not, therefore, pursue enquiries accordingly.
- 5.36. Weapon 6 – A .357 Magnum Ruger revolver that was used in the murder of Mrs Clinton. It had been stolen from a RUC officer in early December 1991. Between July 1992 and October 1993 it had been used in three murders, four attempted murders, and one other incident. It was also recovered by police the day after Mrs Clinton's murder during a search in the Annadale Embankment area. PSNI hold no records relating to the disposal of this weapon.
- 5.37. Weapon 7 – A .38 Special/Magnum calibre 'Charter Arms' type revolver that was used in the murder of Mr Brennan. It had previously been used in a murder in 1987. To date, this weapon has never been recovered.
- 5.38. The origins, use and recovery of the weapons used in the Sean Graham Bookmakers attack will be dealt with in further detail in the next chapter.

6.0

RUC Weapons Intelligence

- 6.1. Soon after the attack at Sean Graham Bookmakers on 5 February 1992, police assessed that the murder weapons had been a VZ58 assault rifle and a 9mm Browning pistol. The RUC's Weapons and Explosives Research Centre (WERC) quickly reported a ballistic link between the VZ58 rifle used at Sean Graham Bookmakers and the murders of Mr Seamus Morris and Mr Peter Dolan and attempted murder of Mr Gerard Burns in 1988. This information was disseminated to police investigating the Sean Graham Bookmakers attack. However, an evidential statement produced by the Northern Ireland Forensic Science Laboratory (NIFSL) differed to the WERC report. The examining scientist stated, *'I was unable to conclusively link the rifle to the shooting incidents [Att murder Gerard Burns 07/03/88] and [murder of S Morris and P Dolan 08/08/88].'*
- 6.2. PSNI have confirmed to my Office that WERC and NIFSL conducted their examinations to the same evidential standard. A subsequent independent examination, commissioned by my Office, established that the VZ58 rifle used in the Sean Graham Bookmakers attack was not the same weapon used in the murders of Messrs Morris and Dolan, and attempted murder of Mr Burns. This was confirmed by a subsequent PSNI examination. I have been unable to establish the reason for the initial inaccurate WERC linkage of the attacks.
- 6.3. As a consequence of the VZ58 rifle used in the Sean Graham Bookmakers attack being incorrectly linked to the murders of Messrs Morris and Dolan and attempted murder of Mr Burns, the RUC did not seek to link any other VZ58 rifles subsequently recovered to the latter two attacks. This linkage is also relevant to other investigations currently being conducted by my Office.

- 6.4. It was later established by police that they had, in fact, recovered the VZ58 assault rifle used in the murders of Messrs Morris and Dolan and the attempted murder of Mr Burns in September 1988.
- 6.5. Police records indicated that the VZ58 rifle used in the Sean Graham Bookmakers attack had been the subject of a disposal order authorised by Police Officer 25. The victims and survivors of the attack had for many years believed that police destroyed this weapon. My investigators recovered the relevant disposal order but it did not describe the method of disposal.
- 6.6. Research undertaken by my Office led to the discovery of the VZ58 rifle used in the Sean Graham Bookmakers attack at the Imperial War Museum (IWM), London. Enquiries revealed that *'discussions'* between the IWM and RUC regarding the weapon began within weeks of the attack, although it was not until 1995 that police donated the weapon to the museum.
- 6.7. The IWM assisted my investigators in both the recovery of the VZ58 rifle to my Office and by conducting an audit to establish whether they were in possession of other weapons linked to undetected terrorist attacks in Northern Ireland. This established that they held no other weapons of this nature.
- 6.8. My Office requested that PSNI conduct a review of all incidents prior to 18 February 1992 where a VZ58 rifle had been discharged to establish whether or not the weapon recovered from the IWM was involved. PSNI conducted this review and informed my Office that no other linkages were identified.

- 6.9. The above incorrect linkage of VZ58 rifles to attacks was not an isolated incident, as demonstrated by inaccurate weapons linkages relating to the murder of Roseanne Mallon on 8 May 1994²⁶.

The UDR 9mm Browning (BL78A14306)

- 6.10. A 9mm Browning pistol (14306) of military origin, stolen from Malone UDR Barracks on 31 January 1989, was subsequently used in the murder of Mr Wallace on 21 December 1991 and the Sean Graham Bookmakers attack on 5 February 1992.
- 6.11. A UDR Corporal stated that he received a telephone call from the training department at approximately 6:00pm on 30 January 1989. He was informed that two identified soldiers would attend the barracks at 7:00am the following morning to collect two SA80 rifles and two 9mm pistols for training purposes.
- 6.12. The following morning two males attended and, as instructed, the Corporal issued them with two SA80 rifles and two 9mm Browning pistols, one of which had a unique serial number ending 14306.
- 6.13. The UDR Corporal returned to duty on 2 February 1989 and was informed that the weapons were missing. Hoping that they would *'turn up'* he waited until the following day before reporting the theft to his authorities. A RUC and MOD Special Investigation Branch (SIB) investigation was commenced.

²⁶ Between 1988 and 1994, in the East Tyrone area, there were 12 terrorist incidents that were linked together through ballistic intelligence. WERC had identified that ammunition cartridges found at the scenes of the said 12 incidents had been fired from the same weapon – this was incorrect. These 12 incidents ought to have been linked to the VZ58 weapon that was used to murder Roseanne Mallon on the 8 May 1994, instead, police investigating Ms Mallon's murder were told that the weapon had no links to any other incident. Ms Mallon was 76yrs old and was fatally injured when gunmen opened fire on a house she had been visiting at the time.

- 6.14. My investigators examined the relevant RUC and SIB investigation reports which concluded that the theft occurred as reported by the UDR Corporal, but those responsible had not been identified. The former police officer in charge of the RUC enquiry was unable to assist my investigators due to ill-health.
- 6.15. Subsequent to the RUC and SIB investigations, Lord Stevens also investigated the incident. This led to the arrest of Person H who was convicted of the theft.
- 6.16. Person H was subsequently quoted in Sir Desmond de Silva's report relating to the murder of Belfast solicitor, Patrick Finucane, in February 1989. He stated that the theft was organised by a SB officer, referred to in the de Silva report as RO6. Person H stated *'I met RO6 in 1986 (00100/1986). RO6 allowed him to steal two SA80's from Malone Barracks. It was set up for me to go in. There were a few with knowledge of what was happening – MI5, FRU he spoke to whatever. I was to do it. I went to do it, I queued up with the Army boys having changed into Army uniform.'* For the purposes of this public statement, I will refer to 'RO6' as Police Officer 1.
- 6.17. There are difficulties concerning the above statement attributed to Person H as the original version cannot be located by PSNI. Person H did not assist my investigators with their enquiries about this statement. The only copy of the statement available is an unsigned typed version which in part reverts to the third person. This is inconsistent with the remainder of the statement.
- 6.18. Person H was arrested and interviewed on a number of occasions during the course of Lord Stevens' investigation. During interview, he did not implicate any other individual in the theft. Police Officer 1 informed the Stevens investigation that he first met Person H after 30 January 1989 and

consequently could not have been involved in the theft as described by Person H.

- 6.19. There was no additional evidence or intelligence linking Police Officer 1 to the theft of weapons from Malone UDR Barracks on 31 January 1989.
- 6.20. My Office submitted a file for prosecutorial advice from the PPS, and in light of the evidential difficulties in this case, criminal proceedings could not be pursued.

Covert deactivation of Browning 14306 by a Specialised Policing Unit

- 6.21. On 26 October 1989, police received intelligence from Person I, a West Belfast UDA/UFF member, regarding plans for a UDA/UFF attack on police. He also indicated the whereabouts of a number of weapons, including a 9mm pistol.
- 6.22. This investigation established that on the evening of 2 November 1989 two SB officers, Police Officers 1 and 2, took possession of a 9mm Browning, and other weapons not linked to any of the attacks detailed in this public statement.
- 6.23. Police Officers 1 and 2 were directed by the RUC's Belfast Regional Tasking and Co-ordinating Group (TCG)²⁷ to convey the weapons to a specialised policing unit where they were forensically examined. The weapons were described as follows:

²⁷ The de Silva report stated: 'The Tasking and Co-Ordinating Group (TCG) was a permanent unit under SB command...The focus of the TCG was the exploitation of intelligence to frustrate terrorist groups. They brought together the RUC SB intelligence and operational resources from the RUC and the Army to mount counter-terrorism operations. This included, for example, exploiting intelligence by means of covert surveillance or the use of overt army or police units. The TCG received information from all three organisations involved in intelligence gathering in Northern Ireland and from a variety of technical sources.'

- I. Two Heckler & Koch 9mm pistols;
- II. A 9mm Browning pistol (14306);
- III. A homemade Sterling submachine gun; and
- IV. Component parts for a homemade submachine gun.

6.24. My investigators sought to interview, as witnesses, a number of former police officers who were attached to this specialised policing unit during the relevant period, but they chose not to assist. However, a number of civilian staff members did assist.

6.25. Person J, one of these civilian staff members, informed my investigators that he received the relevant weapons on the night of 2 November 1989. He stated that he carried out authorised work on the Browning 9mm pistol (14306) and Sterling submachine gun. He added that he had been unable to deactivate the two Heckler & Koch pistols.

6.26. The Browning 9mm pistol (14306) was test fired for the purposes of subsequent ballistic comparisons before Person J '*deactivated*' it. This investigation has established the techniques that he used to render this weapon inoperable. My investigators recovered a number of ballistic items from the relevant test firing that had been retained at the specialised policing unit.

6.27. Person J explained that he and a senior colleague had maintained unofficial records of weapons deactivations they had undertaken while attached to the specialised policing unit. He added that it was his belief that the notebook containing this information had subsequently been destroyed. However, my investigators recovered an extract of this notebook relating to the Browning 9mm pistol and other weapons delivered to the specialised policing unit on the night of 2 November 1989.

6.28. There were no documented processes and procedures in respect of the activity of the specialised policing unit in relation to the deactivation of

firearms and subsequent reconciliation of component parts. Further, there was no documented framework for the decision making and responsibilities of police in respect of this.

- 6.29. PSNI have advised my investigators that they do not hold records relating to these activities by the specialised policing unit during the relevant period.
- 6.30. The relevant weapons, including those that had not been '*deactivated*', were returned to Person I in the early hours of 3 November 1989.

Authorisations for Covert Operations involving the Specialised Policing Unit

- 6.31. The control and subsequent movement of the weapons returned to Person I on 3 November 1989 was the subject of a criminal investigation conducted by Lord Stevens²⁸. He established that covert deactivations of paramilitary weapons were regularly performed by the specialised policing unit during the 1980s.
- 6.32. My investigators examined accounts provided to the Stevens investigation by a number of former senior SB officers. These related to a number of weapons deactivations, including the stolen Browning 9mm pistol (14306).
- 6.33. The RUC Chief Constable at the time, the late Sir John Hermon, informed the Stevens investigation that, in the late 1980s, the Assistant Chief Constable (ACC) in charge of SB was responsible for authorising weapons '*deactivation*' operations. He stated that it would have been his expectation that an appropriate policy was in place to cover these activities. He added that he would not have permitted the return of weapons to an informant that had not been '*deactivated*.'

²⁸ Lord John Stevens, 'Stevens Enquiry 3: Overview and Recommendations' (2003) <<https://cain.ulster.ac.uk/issues/collusion/stevens3/stevens3summary.htm>>

- 6.34. Police Officer 3 was the ACC in charge of SB during 1989. He stated to Lord Stevens that there was no written policy regarding the '*deactivation*' of weapons and that decision making processes were verbal, and not documented, due to the sensitive nature of the activity. He had no personal knowledge of authorising the '*deactivation*' of weapons although he was aware that such operations took place within the specialised policing unit. Police Officer 3 stated that the relevant SB Regional Heads were responsible for these operations, in consultation with his Deputy Head, who is now deceased.
- 6.35. Police Officer 4 was the acting Belfast Regional Head of SB in November 1989. He informed the Stevens investigation that '*deactivation*' operations were '*facilitated*' by TCGs but required prior authorisation from the ACC SB or his deputy, in addition to the Superintendent in charge of the specialised policing unit.
- 6.36. Police Officer 4 had no recollection of authorising the covert operation involving Person I on 2-3 November 1989, but stated to the Stevens investigation that any return of weapons to paramilitaries would have been accompanied by a '*very strong action plan.*' This would have included contingencies for their control and retrieval. The available evidence indicates that, following the return of the weapons to Person I on 3 November 1989, it had been the intention of police to recover them through house searches in the Highfield and Forthriver areas of West Belfast the following day, Saturday, 4 November 1989.
- 6.37. Police Officer 5 was the Detective Superintendent in charge of the relevant Divisional SB. He stated to the Stevens investigation that an operation of this nature would have been presented to the Regional Head of SB in order to ensure that the ACC SB was briefed. He was of the view, however, that the senior officer ultimately responsible would have been the Assistant Chief Constable responsible for policing in Belfast Region. Following

authorisation for such operations, TCGs liaised directly with the SB handlers involved. Police Officer 5 stated that any operation involving the return of *'live'* weapons required approval from *'Headquarters.'*

- 6.38. Police Officer 27 was attached to Belfast TCG in 1989. He explained to the Stevens investigation that only the Regional Head of SB could authorise the transfer of weapons to the specialised policing unit for *'deactivation.'* Although the TCG would arrange for delivery of the weapons to the specialised policing unit, he stated that it was misleading to refer to it as a TCG operation as it was organised and conducted by Divisional SB.
- 6.39. Police Officer 1 stated to the Stevens investigation that when Police Officer 2 and he returned the firearms to Person I on 3 November 1989, he understood that they had all been *'deactivated.'*
- 6.40. Due to the inconsistent recollections of the senior SB officers interviewed by the Stevens' investigation and inadequate records, it was not possible to establish who was responsible for authorising the return of the relevant weapons to Person I on 3 November 1989. It is not known if police relied on a *'blanket authority'* or if specific authorisation was given for that covert operation.
- 6.41. Contrary to accounts provided by the SB officers to the Stevens investigation, no evidence of participation in decision making by the Head of SB or other officers at that level was identified. Similarly, there was no evidence of contingency planning or risk assessments, particularly relating to the involvement of Person I. This is an issue to which I will return later in this public statement.
- 6.42. At the conclusion of the Stevens investigation regarding the RUC's hierarchical accountability in respect of permitting weapons, including

prohibited weapons²⁹, to be returned to paramilitaries, a file was submitted to the Director of Public Prosecutions who subsequently directed 'No Prosecution' against any individual subject to investigation.³⁰ This was due to there being insufficient evidence to attribute the actual decision making and accountability to a particular individual. My investigators did not identify new evidence that was not previously available to the Stevens Investigation and the Director of Public Prosecutions.

- 6.43. In relation to the legality of the '*deactivation*' of firearms and their return to paramilitaries, Person J believed that such operations were legal, given the number of senior police officers involved, in addition to the occasional presence of personnel from other agencies.
- 6.44. Person J's senior colleague had informed him that he had received assurances that the covert operations were sanctioned and controlled by their authorities. He stated that the work was about saving lives and he believed it was essential in order to defeat terrorism in Northern Ireland and that this work was endorsed by senior police.

Events following the return of the weapons to Person I

- 6.45. On 4 November 1989, house searches that were intended to recover the weapons that had been returned to Person I were conducted by police. These did not lead to the recovery of the relevant weapons, including the 9mm Browning pistol (14306) later used in the murders of Mr Wallace and the attack at Sean Graham Bookmakers.
- 6.46. Police held intelligence relating to the subsequent movement of the Browning 9mm pistol (14306) and other weapons that had been returned to Person I on 3 November 1989.

²⁹ A prohibited weapon is a firearm which is so designed or adapted so that two or more missiles can be successfully discharged without repeated pressure on the trigger; for example machine guns.

³⁰ www.ppsni.gov.uk/newscentre/statement-by-director-public-prosecutions-northern-ireland-relation-decisions

- 6.47. On the evening of 6 November 1989, police received intelligence from Person I concerning imminent plans by the UDA/UFF for the movement of the Browning 9mm pistol (14306) to the Glencairn Estate. Although records indicated that police increased their visible presence in the Glencairn area in order to intercept or deter the movement of the weapon, specific information relating to the vehicles and individuals believed to be involved in the activity was withheld from uniformed officers deployed to the area.
- 6.48. On the night of 6 November 1989, police received intelligence from Person I indicating that the UDA/UFF had succeeded in moving the Browning 9mm pistol [14306] to Person L, a senior UDA/UFF Commander in West Belfast. The same information also reported that Person L had established that the Browning was not functioning properly and had requested a submachine gun from Person I. A Sterling submachine gun had accompanied the Browning 9mm pistol (14306) and other weapons which were returned to Person I on 3 November 1989.
- 6.49. This investigation was unable to establish if police responded to the information connecting Person L to the possession of the Browning pistol.
- 6.50. In the early hours of the 7 November 1989, police recovered a number of weapons and component parts in the Springmartin area of West Belfast. During a subsequent house search on 7 November 1989, further weapons and related items were also recovered.
- 6.51. My investigators have established that the weapons and component parts handed to police on 2 November 1989 by Person I were returned to him on 3 November 1989. They were all subsequently recovered on 7 November 1989, as stated in the above paragraph, with the exception of the 9mm Browning pistol (14306).

- 6.52. On 22 December 1991 the Browning 9mm pistol (14306) was used in the murder of Mr Wallace. Subsequently, on 5 February 1992 it was used in the attack at Sean Graham Bookmakers which resulted in the murders of five people and the attempted murders of others.
- 6.53. Between March 1989 and March 1992, police received intelligence indicating that the two SA80 rifles stolen from Malone UDR Barracks on 31 January 1989 were under the control of the UDA/UFF in West Belfast. This information included significant intelligence, obtained by the RUC in October 1991 that the UDA/UFF remained in possession of the SA80s and the two Browning 9mm pistols, including 14306, stolen with them.
- 6.54. The Browning 9mm pistol (14306) was subsequently recovered on 6 May 1992 in the Lisburn area. As with the VZ58 rifle, the circumstances leading to the recovery of this weapon will be covered later in this chapter. One of the SA80s was recovered on 15 May 1992 in the Shankill Road area of West Belfast. The second stolen Browning 9mm pistol was recovered by police on 3 November 1992.

Person I

- 6.55. Person I was proficient in weapons maintenance and, during the late 1980s, was regarded as a *'Quartermaster'* for the UDA/UFF in West Belfast.
- 6.56. In 1987, Person I was convicted of possession of firearms, ammunition, and explosives. Sir Desmond de Silva stated that while in police custody at Castlereagh RUC Holding Centre in 1988 he was recruited as an informant by SB. After his recruitment the *'RUC effectively decided to drop the pursuit of a suspect in a murder investigation in order to recruit the individual as an agent'*³¹.

³¹ The Rt Hon Sir Desmond de Silva QC, *The Report of the Patrick Finucane Review*, 2012

- 6.57. Not only was Person I's intelligence reporting of limited value to police, he also had a '*propensity to hand over weapons to UDA terrorists without informing his handlers*³².' An example of this conduct was his provision of a Heckler & Koch pistol for a '*punishment shooting*' by the UDA/UFF on 7 July 1988. My investigators established that this was one of the weapons submitted by Police Officers 1 and 2 to the specialised policing unit on 2 November 1989.
- 6.58. It is my view, given the unreliability of Person I, the poor quality of the intelligence he provided, and the lack of control police had over the firearms the RUC knew to be in his possession, that the decision by police to return firearms to him was not justified.
- 6.59. Covert operations, involving the deactivation of weapons for the purposes of frustrating major crime, can be an effective policing strategy if accompanied by proper control mechanisms. However, the policing activities relevant to this investigation were fraught with significant risks. It is my view that the most significant one was the unreliability of Person I, his questionable motives, and the known technical knowledge of weapons within the UDA/UFF. It is also my view that the police planning and contingencies that accompanied this operation were absent.
- 6.60. Police quickly lost control of the weapons returned to Person I on 3 November 1989, some of which had not been deactivated. Although most of the weapons were recovered within a reasonably short period, no arrests were made. The Browning 9mm pistol (14306) was not recovered and was reactivated to be later used by the UDA/UFF in the murders of six people.

³² Ibid

The Use of the Browning 9mm pistol (14306) in the murder of Aidan Wallace and the Sean Graham Bookmakers attack.

- 6.61. On 6 February 1992, WERC reported that the Browning 9mm pistol used in the attack at Sean Graham Bookmakers had also been used in the murder of Mr Wallace.
- 6.62. Following its recovery, police investigating the attack at Sean Graham Bookmakers were informed that the Browning 9mm pistol (14306) had been stolen from the UDR on 31 January 1989. However, my investigators identified no evidence that the murder investigation team were informed about the circumstances in which the firearm had been stolen. Neither was there evidence that the police were informed about the firearm being obtained by Person I, and subsequently '*deactivated*', before being returned to him in early November 1989. Person J attributed the withholding of information relating to the history of the Browning 9mm pistol to the need to protect intelligence sources and covert policing tactics.
- 6.63. This investigation found no evidence that intelligence held by SB relating to the movements of the Browning 9mm pistol, following its return to the UDA/UFF in 1989, was disseminated to the murder investigation team.
- 6.64. This investigation found no evidence that, following its recovery in May 1992, police identified the Browning 9mm pistol (14306) used in the murders of Mr Wallace and at Sean Graham Bookmakers as having been the same weapon in their possession in November 1989. It has been suggested that police may have lost track of the weapon. However, I am of the view, based on available evidence, that its history was deliberately concealed.

Disposal of Browning 9mm pistol (14306) by the RUC

- 6.65. Other than its UDR origins, '*deactivation*' by the specialised policing unit, and subsequent use in the murders of Mr Wallace and at Sean Graham Bookmakers, there is no other known ballistic history regarding the Browning 9mm pistol. It was recovered from a vehicle on 6 May 1992, at a RUC Vehicle Check Point (VCP) in the Lisburn area. Two males were arrested. One of them was subsequently convicted for possession of the firearm. The second male was convicted of unrelated offences. Both received custodial sentences and the pistol was later returned to the military by police.
- 6.66. The Stevens investigation subsequently recovered the Browning pistol (14306) from the military. My investigators later retrieved it from PSNI's Serious Crime Exhibits Store. The military have confirmed to my Office that following its return to them, the weapon was refurbished. However, the relevant records detailing the nature of this work are no longer available.
- 6.67. This investigation commissioned an independent forensic examination of the Browning 9mm pistol (14306) which concluded that although the firearm was fully functioning:
- I. The firing pin currently in the weapon was not the firing pin that was present at the time of the murder of Mr Wallace and the attack at Sean Graham Bookmakers; and
 - II. The barrel currently fitted to the weapon was not the same as the barrel fitted at the time of the murders.
- 6.68. It is my view that the return of the 9mm Browning pistol to the military was indicative of the RUC practice of disposing of weapons often linked to undetected murders. Police have suggested that this practice was due to the large numbers of weapons accrued by police during the 'Troubles'.

6.69. Sir Desmond de Silva identified similar practice in his review of the murder of the Belfast solicitor, Patrick Finucane. He stated that:

*'There is a further extraordinary development with regard to the Browning pistol stolen from the UDR barracks that was subsequently used to murder Patrick Finucane...that pistol was eventually recovered on 4 July 1989 during a search conducted by the Royal Ulster Constabulary (RUC)...The gun, after being submitted to the RUC's laboratory for forensic testing, was subsequently returned to the Army in 1995, rather than being preserved as an exhibit in any future murder investigation. Whilst this was in accordance with the RUC procedure operating at the time, it later became apparent that, following its return to service, the slide and barrel of the weapon were replaced at least once. It appears that alterations occurred at some point after its return to the Army from the laboratory via Weapon Control on 28 September 1995 (from whence it was re-issued for service on 6 August 1996) and before it was re-submitted to the laboratory for further testing on 2 July 2001. I have seen no evidence to suggest that this failure to preserve the murder weapon intact as a potential exhibit was due to any sinister ulterior motive. However, the RUC's decision to return the Browning pistol to the Army in the full knowledge that it had been used in the murder of Patrick Finucane was extremely regrettable. It meant that it was later not possible, due to the subsequent modifications that had been carried out on the weapon, to link it forensically with the murder.'*³³

³³ The Rt Hon Sir Desmond de Silva QC, *The Report of the Patrick Finucane Review*, 2012 p280 para 13.16-13.18

Security Force Operation relating to VZ58 rifle (R17155) and Browning 9mm pistol (14306)

- 6.70. As a result of an unrelated civil disclosure procedure, my predecessor, Dr Maguire, became aware of additional information, previously unseen by my investigators, of significant relevance to this investigation. From this material it became apparent that a range of covert investigatory measures were deployed by the RUC and jointly by the RUC and military personnel following the attack that later provided intelligence relating to it. This intelligence contained information that soon after the 5 February 1992 the RUC became aware of the location of items used in the shooting that were unquestionably of substantial evidential value, including the weapons used.
- 6.71. My investigators viewed PSNI documentation confirming that the location of the rifle which had been used in attacks by North Belfast UFF was known to the RUC. An opportunity existed at the time to seize this, other physical evidence, specifically a Browning 9mm pistol (14306), an empty 20 round magazine, a transceiver (commonly referred to as a 'walkie-talkie'), two brown coveralls, two green jackets, and a navy blue baseball cap, stored in a sports bag. It was also open to the police to make arrests of senior individuals within the UFF, suspected of involvement.
- 6.72. Three senior police officers were involved in the decision not to take steps to arrest and seize at that time. All three are now deceased.
- 6.73. The movement of weapons used by terrorists in attacks to avoid seizure and their use as evidence was commonplace. A review of the additional disclosure demonstrates that as a result of the covert investigatory measures in place at the time, the RUC was also aware of the intention to subsequently move the weapons and other physical evidence from the initial location to elsewhere. This included moving the firearms to different

sites. Despite this knowledge, which represented a further and additional opportunity to make seizures and arrests, this did not occur.

- 6.74. My investigators identified two police officers who had direct knowledge of some of the intelligence received concerning the weapons, and other physical evidence, as well as their subsequent movement. The first, a SB officer, chose not to assist with my enquiries. The second, a CID officer, provided a written response to an inquiry from my investigators stating that he was aware from the intelligence received shortly after the murders of the location of the weapons and other items used in the Sean Graham Bookmakers attack and that they were going to be collected and later moved to an unknown location.
- 6.75. The CID officer informed my investigators that his senior officers were made aware of this information. He had no knowledge as to what action was taken in respect of it. My investigators were unable to locate any relevant notebooks, journals, or other records made by the two officers relating to this incident.
- 6.76. I am of the view, based on all the available evidence and information, that senior police officers would have been aware of the location of the VZ58 rifle, Browning pistol and other physical items used in the attack at Sean Graham Bookmakers soon after the 5 February 1992.
- 6.77. My investigators have been unable to identify any of the military personnel who were involved in the use of the covert investigatory measures deployed at the time.
- 6.78. On 18 February 1992, police carried out a search operation at an address in East Belfast which led to the recovery of a VZ58 rifle, a shotgun, ammunition, and documentation likely to be of use to terrorists. Person A was arrested at the address during this operation. The rifle was submitted for forensic examination which confirmed that it had been used in the

attack at Sean Graham Bookmakers. I am of the view, based on all the available evidence and information, that this VZ58 rifle was the one removed from the initial location after the attack. Neither the Browning pistol nor the other physical items were recovered during this search. I consider this to be attributable to the decision not to take steps to arrest and seize once the location of the items was known or during their subsequent movement.

- 6.79. My investigators traced and interviewed a number of military personnel involved in the planning and implementation of the search operation on 18 February 1992. Based on the information obtained from these individuals, I am of the view that the search was initiated as a result of intelligence derived from the covert investigatory measures deployed following the attack.
- 6.80. Person A provided varying accounts when interviewed by police. He initially stated that he took possession of the rifle and other items in early January 1992 but they did not leave his address until his arrest on 18 February 1992.
- 6.81. Person A later changed his account to police stating that he took possession of the rifle only the day before his arrest. He would not name the other individuals involved in the movement of the weapon. He was charged with the five murders at Sean Graham Bookmakers but subsequently acquitted. He received a 22 year sentence for possession of firearms, ammunition, and documentation likely to be of use to terrorists.
- 6.82. Three other individuals were also convicted of possession of documentation likely to be of use to terrorists following the search operation on 18 February 1992. They received prison sentences of five, four, and four years respectively.

- 6.83. In late February 1992, police received intelligence that following the attack at Sean Graham Bookmakers Person M collected the VZ58 rifle used in the attack from another location in [South Belfast] before conveying it to Person A in East Belfast. This intelligence was supported by other information gathered during the police investigation into the weapons recovery on 18 February 1992. Person M was regarded by police at the time as a prominent member of East Belfast UDA/UFF. He was arrested in respect of the find of documents on 18 February 1992 but made no admissions and was subsequently released without charge.
- 6.84. In early May 1992, following the receipt of intelligence police recovered the relevant Browning 9mm (14306) pistol. The weapon was retrieved from a vehicle stopped by police in the Lisburn area. When police searched the vehicle they found the pistol, a .455 Webley revolver and ammunition. Persons ZZ and AAA, who were in the vehicle when it was stopped, were both arrested.
- 6.85. The Browning pistol was submitted for forensic examination which established that it was the weapon stolen from Malone Road UDR armoury on 31 January 1989. The pistol had been used in the murder of Mr Wallace and the attack at Sean Graham Bookmakers. This investigation established that it was the same pistol as had been at the first location following the attack, and which was not recovered in mid-February 1992.
- 6.86. Persons ZZ and AAA made no admissions when interviewed by police. Person ZZ was subsequently convicted of unlawful possession of firearms and received a seven year prison sentence. Person AAA was acquitted but imprisoned for other unrelated offences. Intelligence at the time indicated that both were members of Lisburn UDA/UFF.
- 6.87. My investigators identified the three police officers who were involved in the gathering of the intelligence that led to the recovery of the Browning pistol. One of the officers is now deceased and a second officer chose not

to assist with my enquiries. The third officer confirmed that he had no knowledge of the early May 1992 operation. He could not recall the incident in any detail.

- 6.88. This investigation has been unable to establish the movements of the Browning 9mm pistol following the attack on 5 February 1992, and its recovery in early May 1992. Although there are no records of the pistol having been used during the intervening period an opportunity existed for it to be used in violent crime during the four month period prior to its seizure.
- 6.89. The use of covert investigatory measures by the RUC and military after 5 February 1992 and in early May 1992 were planned and managed by Belfast TCG. In order to understand the rationale behind key decisions in respect of both operations, my investigators traced and spoke to a number of former police officers who were identified as having been attached to Belfast TCG at the relevant time.
- 6.90. Although this was a useful exercise in providing context as to relevant structures and procedures at the time, my investigators were unable to identify the RUC officers involved in the decision making central to this enquiry. It has not been possible to identify additional relevant police documentation.
- 6.91. In addition, this investigation has identified informants who were in a position to have known of the movements of the rifle but failed to inform their handlers.

Summary

- 6.92. A 9mm Browning pistol, stolen from the UDR on 31 January 1989, was used in the murder of Mr Wallace on 22 December 1991. It was also used in the attack at Sean Graham Bookmakers.

- 6.93. This investigation has not identified new evidence beyond that gathered by the Stevens 3 investigation, that any member of the RUC conspired with those responsible for the theft of the Browning pistol from the UDR.
- 6.94. However, this investigation established that the stolen Browning pistol had been in the possession of SB in early November 1989 and was '*deactivated*', before being returned to an informant, Person I.
- 6.95. Police records indicated that the stolen Browning 9mm pistol (14306) and other weapons were recovered from Person I and later returned to him by police handlers after being rendered temporarily inoperable. Some of the other weapons returned to Person I were not deactivated. I am of the view that it would have been clear to police that the UDA/UFF had the technical ability and means to reactivate the relevant Browning pistol.
- 6.96. Police lost control of the weapons for a period of time. I am of the view that this was attributable to the proven unreliability of Person I and the continued efforts of police to conceal his status as an informant. Although some of the weapons were recovered a number of days later the Browning pistol remained in the hands of the UDA/UFF who reactivated the weapon. The handling of this weapon resulted in Lord Stevens submitting a file of evidence to the PPS as noted at paragraph 6.43, who subsequently directed 'No Prosecution' against any individual subject to investigation.
- 6.97. The only available records detailing the November 1989 covert police operation were '*unofficial notes*' maintained by civilian staff members attached to the specialised policing unit who undertook the '*deactivation*' of weapons. These staff members were so concerned about their participation in this area of work that they repeatedly sought assurances from the highest levels of the RUC as to its legality. I am of the view, given the available evidence that they were provided with the necessary assurances by of the top of SB.

- 6.98. Senior members of SB explained that no records of these operations were maintained by staff attached to the specialised policing unit because of the sensitivity of the activity. As a consequence, key officers were unable to recall the specifics of the operation involving the Browning pistol. The absence of records made it impossible to establish accountability for these events, some officers stated that certain aspects of an operation of this nature would have required authorisation from *'Headquarters.'*
- 6.99. The Assistant Chief Constable in charge of SB at the time stated that, although he was aware that such activity took place, he was not involved. The Chief Constable of the RUC between 1982 and 1989 stated that he would not have permitted the return of *'live'* firearms to paramilitaries.
- 6.100. The RUC had no written policy in place at the time. This investigation has been unable to establish whether the RUC gave consideration to the justification for the deactivation, given the risks involved.
- 6.101. The first recorded use of a VZ58 assault rifle in Northern Ireland was the attempted murder of Mr Burns in North Belfast in March 1988. The same weapon was subsequently used in the murders of Messrs Morris and Dolan, also in North Belfast, in August of the same year.
- 6.102. The VZ58 rifle used in the attack at Sean Graham Bookmakers was recovered shortly after that attack. WERC had incorrectly attributed it to the murders of Messrs Morris and Dolan, and the attempted murder of Mr Burns. My investigators subsequently recovered the VZ58 rifle from the IWM and, through independent ballistic examinations, identified this error.
- 6.103. Police subsequently returned the stolen Browning 9mm pistol (14306), used in the Sean Graham Bookmakers, to the military. My investigators retrieved this weapon from the PSNI estate, it having been recovered from

the military by the Stevens investigation. The barrel and firing pin of the Browning pistol appeared to have been replaced by the military.

- 6.104. Police investigating the attacks referred to in this public statement received reports detailing the history of those weapons involved. The reports forwarded to police investigating the murders of Aidan Wallace and the attack at Sean Graham Bookmakers did not describe the full intelligence history relating to the deactivation of the Browning 9mm involved. As a result, no enquiries were conducted by police with Person I.
- 6.105. I acknowledge that the RUC were faced with significant challenges in relation to the secure storage of the many weapons recovered during the 'Troubles'. I am of the view, however, that the disposal of the VZ58 rifle and the Browning 9mm pistol used in undetected murders should not have occurred.
- 6.106. During the course of this investigation the subsequent discovery that the VZ58 rifle involved in the attack at Sean Graham Bookmakers had been on display in a museum has caused additional and understandable distress to the victims, survivors and their families.
- 6.107. This investigation has been unable to establish the full details of the February 1992 covert Security Forces operation outlined earlier in this chapter. This investigation has been unable to establish the full details, including associated decision making, of the covert investigatory measures implemented by the Security Forces following the attack at Sean Graham Bookmakers, as outlined earlier in this chapter. The VZ58 rifle used in the Sean Graham Bookmakers attack was recovered on 18 February 1992, in addition to other munitions and documentation linked to the UDA/UFF.
- 6.108. Due to the destruction of records this investigation has been unable to satisfactorily establish why police did not pursue the recovery of the VZ58, Browning 9mm pistol (14306) and other items, including clothing, used in

the attack at Sean Graham Bookmakers when an opportunity was presented to do so soon after the murders. If these items had been seized and forensically examined they could have yielded significant forensic evidence. Instead police chose not to exploit this opportunity and although the VZ58 rifle was recovered on 18 February 1992, the remaining items were lost. Consequently one of the most significant evidential opportunities relevant to the murders of Mr Wallace and those at Sean Graham Bookmakers, was gone.

- 6.109. I am of the view that the events associated with the loss of evidence directly relevant to these murders, is indicative of a strategy in which police prioritised intelligence gathering and protection of sources, over the detection of serious crime and their obligation to bring the perpetrators of those crimes to justice.

7.0

The Use of Informants

7.1. Central to many of the historic investigations conducted by my Office are issues relating to the use of informants by SB. Throughout this public statement numerous references are made to these individuals. A number of state agencies, including the RUC, managed informants during the period from 1969-1998 known as the 'Troubles.' This chapter provides an overview of the unique circumstances and challenges that existed at the time in respect of police recruitment and management of informants.

7.2. Individuals who provided information to police were known as informants, agents, or sources. Since the introduction of the Regulation of Investigatory Powers Act (RIPA) in 2000, which provided legislative guidance regarding the use of these individuals, they have been known as Covert Human Intelligence Sources (CHIS). Under this legislation a person is a CHIS if:

“ (a) he establishes or maintains a personal or other relationship with a person for the purpose of facilitating the doing of anything falling within paragraph b) or c);

b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or

c) he covertly discloses information obtained by the use of such a relationship or as the consequence of the existence of such a relationship.”³⁴

³⁴ Section 26(8) of the Regulation of Investigatory Powers Act 2000

Throughout this public statement I have referred to these individuals as informants.

7.3. The use of informants for intelligence gathering is a long established international policing tactic. The RUC, throughout ‘the Troubles’, sought to infiltrate both loyalist and republican paramilitary organisations via the recruitment and management of informants at all levels. This was viewed as essential in order to disrupt terrorist activities and gather information which could then be developed into the evidence required to effect arrests and secure convictions.

7.4. In his report of the Patrick Finucane Review, the late Sir Desmond de Silva, QC, observed that; *‘When examining the ‘Troubles’, I am satisfied that the running of agents in terrorist organisations was one of the most effective methods by which the Security Forces could frustrate terrorist activity and save lives.’*³⁵

7.5. At paras. 112-113, in his Executive Summary to the Report on the murder of Patrick Finucane, Sir Desmond de Silva QC noted the importance of the use of agents within terrorist groups:

‘[112.] There are ... some broad themes that may still have relevance to the world of intelligence-gathering. I have not concluded that the running of agents within terrorist groups is an illegitimate or unnecessary activity. On the contrary, it is clear that the proper use of such agents goes to the very heart of tackling terrorism. The principle lesson to be learned from my report, however, is that agent-running must be carried out within a rigorous framework. The system itself must be so structured as to ensure adequate

³⁵ The Rt Hon Sir Desmond de Silva QC, *The Report of the Patrick Finucane Review*, 2012 at para 4.3

oversight and accountability. Structures to ensure accountability are essential in cases where one organisation passes its intelligence to another organisation which then becomes responsible for its exploitation.

[113.] It is essential that the involvement of agents in serious criminal offences can always be reviewed and investigated and that allegations of collusion with terrorist groups are rigorously pursued. Perhaps the most obvious and significant lesson of all, however, is that it should not take another 23 years to properly examine, unravel and publish a full account of collusion in the murder of a solicitor that took place in the United Kingdom.'

- 7.6. I acknowledge that the use of informants by the RUC resulted in the conviction of individuals involved in acts of terrorism. Firearms and other items of use to paramilitaries were recovered and lives were saved. However, my investigation has also identified other matters of concern regarding the use of informants. I highlight and address these concerns in this chapter.
- 7.7. Both the military and Security Service also 'ran' informants in Northern Ireland. However, this chapter focuses on the activities of SB who actively recruited from both loyalist and republican paramilitary ranks. I have no statutory remit to investigate either the military or Security Service. It is noteworthy that, not all information collated by police originated from within terrorist organisations. Police also gathered information via anonymous telephone calls and letters, from concerned members of the public or those who sporadically submitted information. The latter were referred to as 'casual contacts' and were often given a pseudonym. Technical surveillance and specialist undercover units also formed part of an extensive intelligence-gathering network.

- 7.8. SB adopted a pro-active strategy in the identification and recruitment of informants from within paramilitary groupings. They sought to infiltrate these organisations at all levels in order to attain a full understanding of their structures and activities from *'top to bottom.'* There is evidence from this and other historic investigations conducted by this Office that that SB maintained an informant-based intelligence network which permeated all levels of loyalist and republican organisations.
- 7.9. The motivation for an individual to become an informant is complex. Reasons can include financial gain, the prospect of a reduced custodial sentence, or retribution against another paramilitary member. Investigations conducted by this Office also identified an instance where a former officer indicated an individual became an informant because they thought it would protect them from prosecution, believing they were a *'protected species.'*
- 7.10. Another example, not connected to this investigation, involved an informant describing *'the thrill'* of leading a double life, while others expressed a genuine desire to help police and move away from a life of paramilitary crime. I am also aware of allegations made by paramilitaries that they were threatened and pressurised by SB officers until they believed they had no option but to become an informant and supply information to police.
- 7.11. Registered informants were allocated a unique reference number and managed by specially-trained officers, known as *'handlers,'* who gathered information from informants through meetings and telephone calls. Some met more regularly than others and the quality and quantity of information provided to handlers varied. Afterwards, a handwritten record of the meeting would be submitted by the handler to their authorities. It would then be assessed, graded as to its relevance and quality, before a decision was taken as to how best it could be utilised. This was the process whereby information was converted into intelligence.

- 7.12. Intelligence was shared within the RUC and other security forces in a variety of ways. This could be disseminated to CID detectives investigating serious terrorist crime or passed to the relevant Tasking & Co-Ordinating Group who had responsibility for conducting intelligence-led operations against paramilitary groupings. The dissemination of actionable intelligence initiated a process where lines of enquiry were generated, leading to the formulation of valuable evidential opportunities. Evidence is needed to support prosecutions and secure convictions. Intelligence, in itself, could not achieve this.
- 7.13. Timely and appropriate sharing of intelligence by SB resulted in numerous arrests and convictions. Weapons were recovered, terrorist attacks frustrated, and lives saved. However, my investigators also discovered instances where intelligence was marked '*NDD*' (Not for Downward Dissemination), '*LD*' (Limited Dissemination) or '*Slow Waltz*.' The latter term allowed for intelligence to be disseminated but only after a period of time had passed. As with '*NDD*' and '*LD*', this delay was often in order to protect an informant from becoming exposed and compromised.
- 7.14. Police have a duty to protect life, including the lives of the informants they manage. Exposure could have resulted in the informant being exiled or executed. Handlers were also keen to preserve key '*assets*' who were providing valuable information. This had to be balanced, however, against the rights of the general public and other members of the security forces. The non-dissemination, or delayed dissemination of intelligence, in order to protect an informant, could place the lives of many others at risk. I acknowledge that the protection of the informant was constantly competing with the need to share intelligence with other police departments in a timely manner to prevent, or detect, crime. How these competing interests were

managed by police emerged as this investigation into the attacks outlined in this public statement investigation progressed.

- 7.15. I accept that there are those who have moral objections to individuals involved in serious criminality being actively courted by police as potential informants. However, I also accept that often only those deeply embedded within terrorist organisations could provide the high-grade, actionable intelligence which police required to disrupt paramilitary activities, secure convictions, and prevent loss of life.
- 7.16. The recruitment and management of informants will always be a contentious area. The identifiable 'risks' of using a particular informant must be carefully and continuously assessed against the potential 'rewards'. These rewards include the acquisition of quality intelligence that leads to disruption of terrorist activities, seizures of weapons, arrests and ultimately the saving of lives. Identifiable risks have to be carefully considered against potential rewards on a continual basis. Risk assessments of informants must be frequent, individually tailored to their specific circumstances, and fully documented in order to ensure a robust and transparent process. The quality and quantity of intelligence obtained from an informant must be constantly balanced against the Article 2 rights of the informant, other relevant parties, and the general public.
- 7.17. The management of the informant had to be regularly monitored during the course of their registration. Any emerging issues which brought into question their continued viability ought to have been addressed at the earliest opportunity if these represented a significant threat to the public and/or security forces. The greater the risk, the more pressing the need for robust management and oversight. The quality and frequency of the information they were supplying also had to be regularly reviewed. Unfortunately, this did not always occur. Below are a number of examples

identified during this investigation, and others conducted by my Office where, in my view, informants were inadequately managed.

- 7.18. This investigation interviewing a number of retired SB officers. They articulated the difficulties and frustrations of recruiting and managing informants who were often unreliable and evasive. I am mindful of the considerable challenges faced by police officers who performed these roles and accept that they often operated within a volatile, dangerous and chaotic environment.
- 7.19. A number of officers stated that the informants they managed were accomplished liars who operated on the fringes of recognised society, with little respect for law and order. The general consensus amongst those retired officers interviewed by my investigators, in this and other investigations, was that they urged informants not to engage in serious crime. This was a challenging and dangerous area of policing where handlers required clear and concise guidance so they could manage informants in a lawful and ethical manner. Unfortunately, as discussed in Chapter 4 of this public statement, no legislation existed. Although RIPA codified what was established policing practice in relation to recruitment, authorisation and management of informants.
- 7.20. A number of retired SB officers informed my investigators that there was a lack of intelligence coverage within South Belfast UDA/UFF prior to the Sean Graham Bookmakers attack. They were actively encouraged by senior police, following the attack, to infiltrate South Belfast UDA/UFF. This led to the targeting and recruitment of individuals linked by intelligence to serious and violent crime, including murder.

Police Management of South Belfast Informants.

- 7.21. Although this was the belief of these officers it is, in my view, inaccurate. My investigation has established that police already had informants at all levels within South Belfast UDA/UFF prior to the attack, ideally placed to report on the activities of the organisation. The issue was not a lack of informants but rather the quality of intelligence emanating from those already embedded in the organisation. Some, who were well-placed to gather high quality intelligence, provided only low quality material over a protracted period of time. Informants routinely failed to report on serious crimes that intelligence suggested they were personally involved in. Despite this, they were retained by police as informants.
- 7.22. Accounts obtained from retired handlers evidenced a willingness within SB to recruit informants regardless of the quality of the information obtained. This investigation has identified instances where the management of informants was not accompanied by effective oversight. This activity predated RIPA and the guidance at the time was inadequate regarding the recruitment and management of informants. However, the recruitment of any informant has to be carefully considered, balancing the 'risks' posed against potential 'rewards' to be gained.
- 7.23. My investigation reviewed police documentation detailing proposals for the recruitment of a UDA/UFF member. The documentation listed intelligence implicating this individual in numerous terrorist attacks, including a '*prominent role*' in multiple murders. The author of the police document argued that this person's history of involvement in loyalist paramilitary activity made them an ideal candidate for recruitment as an informant. Although this recruitment was unsuccessful at that time this individual later agreed to become an informant for the PSNI.

- 7.24. This investigation, and others conducted by my office, have identified eight UDA/UFF members who were linked, through intelligence, to the murders and attempted murders of 27 people. A number of these are referred to in this public statement. All eight individuals were police informants either at the time, or subsequent to, these attacks.
- 7.25. This investigation identified an informant possessing information of use to terrorists which they did not pass to police. This information was directly linked to a murder referred to within this public statement.
- 7.26. This investigation established that police received information numerous informants concerning the terrorist attacks featured in this public statement. However, there was no information warning of a specific attack on an identified individual or location which police could have acted upon.
- 7.27. General information was received before the murders of Mr Conlon and Mrs Clinton. There is no record of any measures being initiated by police, upon receipt of this information, to frustrate either attack. Appropriate tactics could have included the setting up of 'snap' VCPs, use of stop and search powers, or deployment of a heavy security force presence in a particular locality.
- 7.28. The risks associated with recruiting paramilitaries as informants is again illustrated by the activities of Person I as detailed in Chapter 4 of this public statement. His handlers knowingly allowed him to move firearms for the UDA/UFF, including a deactivated Browning 9mm pistol, which was later used in the murder of Mr Wallace and five people during the Sean Graham Bookmakers attack. Person I had previously supplied this firearm to his handlers who had arranged for its de-activation before returning it to the informant. This is indicative of the real risks associated with recruiting

informants from within the ranks of paramilitary organisations. This is an example in my view of the risks involved in managing informants.

- 7.29. My predecessor, Dr Michael Maguire, has commented on how individuals with leading roles in the importation and distribution of firearms into Northern Ireland were at the time, or later became, police informants. These firearms were subsequently used in multiple murders and attempted murders, some of which are referred to in this public statement. Police did not conduct investigations of the roles performed by these individuals proportionate to the consequences of their actions.
- 7.30. I have also identified instances, in this and other investigations, where informants failed to warn police of imminent attacks, despite being themselves either directly or indirectly involved in them. Police received limited pre-incident intelligence, despite having informants ideally placed to gather this type of information. Relevant intelligence was either not disseminated or delayed, thus diminishing its value when eventually passed on.
- 7.31. Investigations conducted by this Office have identified examples of SB receiving intelligence of limited, if any, value. This included informants providing or repeating information that was already in the public domain. For instance, providing information as to which organisation claimed responsibility for an attack. Another instance was when an informant notified his handler of the location of weapons despite police having recovered the firearms.
- 7.32. On more than one occasion an informant submitted intelligence to their handler regarding an attack, having previously provided a witness statement to police containing the same information. In a number of instances,

informants passed details of murder suspects where police had already arrested these individuals.

7.33. This chapter has highlighted the significant policing challenges that the RUC faced. Police faced pressures dealing with dedicated and well-organised paramilitary groupings involved in an escalating campaign of *'tit-for-tat'* sectarian violence. Home Office Circulars, provided guidance around the use and management of informants, however, many RUC officers felt that this guidance was inadequate to address the ongoing terrorist situation in Northern Ireland. The NIO Working Group issued guidelines setting out the responsibilities of both the informant and those police officers tasked with their management, which were adopted by the RUC in March 1992.

7.34. I am mindful also of the comments of Sir Desmond de Silva QC in his overview of Informant Handling by the RUC in his Report on the Patrick Finucane Review:

*'What was required was a clear statutory recognition that agents must be run at the heart of terrorist groups; some recognised limits as to the extent to which agents could become involved in criminal enterprises; and a rigorous regulatory framework to prevent abuses. RIPA subsequently demonstrated the type of statutory regime that should have been applied much earlier in the context of Northern Ireland. However, it is doubtful whether RIPA and its associated Code of Practice provides a real resolution to these difficult issues given that it provides little guidance as to the limits of the activities of covert human intelligence sources.'*³⁶

7.35. In my view the use of properly recruited and managed informants can be an appropriate tactic in order to frustrate and defeat criminality. This and other investigations have identified instances where the effective use of

³⁶ The Rt Hon Sir Desmond de Silva QC, *The Report of the Patrick Finucane Review*, 2012 paragraph 4.88

informants may have thwarted serious crimes and saved lives. However, this investigation has also identified instances where the deployment and management of informants has been both strategically flawed and ethically unsound.

- 7.36. The pressure to create and maintain an extensive intelligence network within paramilitary ranks led to an environment where police, at times, failed to ensure the effective and efficient management of informants. The quality and quantity of intelligence obtained was disproportionate when balanced against the significant threat posed to those parties involved and wider society. In these instances, I am of the view that the risks taken by police were unacceptable.

8.0

Intelligence available to the RUC prior to and following the attacks

- 8.1. In January 1980, the then Chief Constable commissioned a report on the exchange of intelligence between SB and CID. The report which followed, the Walker Report³⁷, set out guidelines aimed at managing this exchange of intelligence.
- 8.2. SB were to be aware of all military agents and CID informants. Informants who were providing CID with intelligence on terrorism were to be handled instead by SB. There were instances where SB and CID would jointly manage an informant.
- 8.3. The Walker Report stated that the charging of an informant/agent must be the result of a conscious decision by both SB and CID, in which the balance of advantage has been carefully weighed. The report outlined how all proposals to effect arrests, other than those arising directly out of an incident, must be cleared with SB to ensure that no agents either RUC or the military are involved. The recommendation was made that all arrest lists were to be cleared by Regional Heads of SB.
- 8.4. The report detailed how CID officers needed to be alert to the possibility of recruiting as agents the individuals they were arresting and interviewing.

³⁷ Walker Report 'Report on the Interchange of Intelligence between Special Branch and CID, and on the RUC Units involved, including those in Crime Branch C1(1) (1980) <<https://caj.org.uk/2018/07/02/ruc-walker-report-1980/>>

When and where the opportunity arose, SB were to be involved at an early stage. It was also noted that it was important to ensure that information provided by the individual was handled in such a way that his value as an agent was not put at risk at an early stage.

- 8.5. The report also set out that the security situation required the RUC to seize every opportunity to acquire intelligence on subversive organisations. This relied on the essential and close co-operation of SB and CID.
- 8.6. It further identified that SB, with its extensive knowledge of terrorism, had an essential role to play in suspect interviews. If it seemed that an individual had intelligence of value, CID officers should, wherever possible, consider delaying charging the suspect and allowing SB the opportunity of speaking to them.
- 8.7. This led to a number of recommendations such as *“if a CID officer decides that an individual is not going to make an admission, he should arrange for the interview to be taken over by Special Branch”* and *“...if an individual has made an admission and the CID officer consider he may have intelligence of value to give, Special Branch should be allowed to question the individual on more general matters. It is important that CID should not proceed immediately to a charge whenever an admission has been obtained.”*³⁸
- 8.8. It was acknowledged in this report that SB must resist the temptation to be over protective of their intelligence and that the true value of intelligence will be obtained when that intelligence is passed on to other sections of the RUC for action. The report details that *‘the whole system of intelligence and intelligence based operations will only work properly if those who need to know are informed; and they are all confident that security will be*

³⁸ Ibid at para 16 (b) and (c)

maintained'. I have focused on the intelligence that was known to SB both pre and post each of the murders detailed in this public statement and whether that intelligence was disseminated to those that needed to know it such as the CID teams investigating the murders.

- 8.9. The UFF has been described as the military wing of the UDA³⁹ and the name employed for the purpose of claiming terrorist activity. The UFF was proscribed in November 1973 but the UDA itself was not proscribed as a terrorist group until August 1992. Intelligence held by the police suggests that by the mid-1990s, South Belfast UDA/UFF consisted of approximately 150 members.
- 8.10. My investigation identified intelligence and evidence of collaboration between the various UDA/UFF Brigades in respect of personnel, weapons and targeting with the intention of obscuring culpability. This was particularly the case in relationships between South Belfast and their East Belfast and West Belfast counterparts. Intelligence reporting in early 1992 suggested collaboration between the UVF, Red Hand Commando (RHC) and the UDA/UFF which extended beyond sharing weapons. The intelligence reported that RHC terrorists were involved in attacks that were claimed by the UFF. There is no indication that intelligence of this nature was shared with investigating officers.
- 8.11. During the early 1990s the UDA/UFF maintained a parallel strategy, with other loyalist paramilitary organisations, which involved spontaneous, sectarian murders, often attributed to retaliation for murders by republican

³⁹ As previously stated at 1.1 of the public statement, the early 1990s saw an escalation in violence attributed to the Ulster Defence Association (UDA), operating under the pseudonym of the Ulster Freedom Fighters (UFF). Whenever it carried out a terrorist attack, the UDA used the cover name UFF when claiming responsibility. The UFF were proscribed in November 1973 but the UDA was not proscribed as a terrorist organisation until August 1992. I consider that the UDA and UFF were the same organisation. For the purposes of this public statement, it shall be referred to as the UDA/UFF.

paramilitaries. Such attacks may have involved a lesser degree of planned 'targeting'.

- 8.12. Intelligence received in early 1998 suggests that the UDA/UFF agreed they would not claim responsibility for attacks perpetrated by it. Mr Brennan's murder on 19 January 1998 was not claimed by any loyalist paramilitary group. Based on intelligence held by police in relation to this attack there is, however, reason to attribute it to South Belfast UDA/UFF.
- 8.13. During the period of the attacks examined by this investigation, the RUC had intelligence coverage of the Combined Loyalist Military Command⁴⁰ (CLMC), UDA/UFF Inner Council and the UDA/UFF in Belfast. These intelligence gathering opportunities not only acquainted police with the strategies being pursued by the UDA/UFF but also the potential to anticipate some attacks, identify potential targets and efficiently identify suspects to murder investigations.
- 8.14. The RUC's strategy of penetrating the UDA/UFF at every level, through informants and other covert tactics, did not, however, produce intelligence that police were able to exploit in the prevention of the attacks outlined in this public statement.
- 8.15. However, this investigation has identified intelligence and covert operations, referred to in Chapter 6 of this public statement that suggests police were in possession of intelligence which, if exploited at the time, may have been capable of leading to the detection of the murder of Mr Wallace and the attack at Sean Graham Bookmakers.

⁴⁰ The Combined Loyalist Military Command is an umbrella body for loyalist paramilitary groups in Northern Ireland set up in the early 1990s

- 8.16. Although the nature of the UDA/UFF's activities and membership were known to police investigating loyalist attacks, strategic intelligence sourced from its leadership was rarely disseminated to CID. As a consequence, individuals who were instrumental in directing the overarching strategies of the UDA/UFF often evaded accountability for murders committed by their organisations.
- 8.17. This investigation has examined intelligence received by police prior to and following each of the attacks detailed in this public statement. This examination was aimed at establishing whether information existed which, if acted on, could have prevented any of the attacks and/or assisted corresponding police investigations.
- 8.18. In October 1992 the RUC had intelligence which stated that due to heightened security awareness of those individuals they believed to be active republicans, the UFF's focus would be on people such as taxi drivers and tradesmen. This was not accompanied by specific targeting information to minimise the risk to those groups.
- 8.19. During 1990 four taxi drivers were murdered by paramilitaries in Belfast, two from the Protestant community and two from the Catholic community. During 1991 seven taxi drivers were murdered in Belfast, all of whom were from the Catholic community.

The Attempted Murder of Mr Caskey on 9 October 1990

Pre Incident Intelligence

- 8.20. Police first received intelligence of a threat to Mr Caskey in December 1988, indicating he was high on a list of UVF targets. Further intelligence in relation to targeting of Mr Caskey by loyalist paramilitaries was received by police in March 1989 and October 1989. Mr Caskey has stated that he was not alerted to this emerging risk to his life. My investigators found no evidence that he was informed about the threat. This intelligence was available to police a year before his attempted murder.

Post incident intelligence

- 8.21. The firearm used in the attack had been used to commit two murders during an attack in 1988 which were claimed by the UDA/UFF. However, use of the same firearm following the attack on Mr Caskey was attributed to the UVF. My investigation did not identify any other post incident intelligence held by police in relation to the attempted murder of Mr Caskey

The Murder of Mr Conlon on 14 October 1991

Pre incident intelligence

- 8.22. Mr Conlon was employed as a driver for STS Taxis, Andersonstown. Intelligence received by the RUC in early June 1991 indicated that Person Q wanted the UDA/UFF to target taxi drivers from the nationalist community,

as he believed they were gathering intelligence to assist republican paramilitaries in targeting loyalists.

- 8.23. In early October 1991 police received separate intelligence reports that Person Q and Person T had been in the Finaghy area but had been unable to locate their target. The intelligence stated that the attack had been postponed until the week of the 14 October 1991 but was not specific as to the identity of the target.
- 8.24. Mr Conlon was murdered in his taxi on 14 October 1991, having collected a fare from the Devenish Arms Inn, Finaghy. The scene of his murder was in the Taughmonagh Estate, Finaghy.
- 8.25. In a telephone call to the BBC, the UFF claimed responsibility for the murder of Mr Conlon, stating they; *'were not involved in a campaign against taxi drivers but wish to state that the taxi firms of STS, Brooke and Apollo are openly involved with the Republican movement in surveillance and intelligence work in Loyalist areas of South Belfast.'*
- 8.26. My investigation did not identify specific pre incident intelligence held by police in respect of the targeting of Mr Conlon. He was the seventh catholic taxi driver to be murdered by loyalist paramilitaries during the nine months between March and October 1991. There is, however, no evidence that the information about the targeting by Person Q and Person T prior to the attack was disseminated to detectives investigating the murder of Mr Conlon.

Post incident intelligence

- 8.27. SB received intelligence shortly after the murder of Mr Conlon that 10 men from South Belfast UDA/UFF, including Person Q, had been involved in sanctioning, planning and executing the attack. The intelligence identified Person T and Person U as responsible for the murder. They were arrested in mid-January 1992.
- 8.28. Further intelligence received by police identified Person V as having been involved in the murder but was not specific about his role. SB recorded that this intelligence was forwarded to the murder investigation team. Although there is no record of the intelligence within the investigation papers, Person V's name appears in the documents, albeit not linked to any investigative actions.
- 8.29. A number of days after the attack, police received intelligence relating to a sighting of Person W in the Taughmonagh Estate on the night of the murder, wearing a similar jacket to that of an individual seen outside the Devenish Arms Inn on the evening of the murder. There is no evidence that this intelligence was disseminated to CID.
- 8.30. In late October 1991 SB received intelligence that Person X believed police wanted to question him about the murder of Mr Conlon. This was quickly followed by intelligence that he had been seen running from the murder scene and anonymous information that he had been one of the gunmen responsible for the murder of Mr Conlon. Person X was arrested in December 1992.

- 8.31. Additional intelligence received in November 1991 named Person Y, Person Z, Person AA, Person BB and Person CC, all of whom were associated with the South Belfast UDA/UFF, as having been involved in the murder. There is no evidence that this information was disseminated to CID.
- 8.32. In mid-December 1991 police received information that the murder of Mr Conlon was carried out by Person U of South Belfast UDA/UFF. The intelligence reported that Person U had been the taxi fare collected by Mr Conlon at the Devenish Arms Inn and it stated that Person U admitted he had shot him. My investigation identified evidence that this intelligence was disseminated to the murder investigation team.
- 8.33. In January 1992 Person U was arrested in connection with the murder of Mr Wallace but the police officer leading the enquiries, Police Officer 7, documented his decision in the original investigation papers “not to question (Person U) regarding (the Conlon) murder until he had admitted his involvement in the murder at the Devenish Arms Inn (Mr Wallace) as it was felt better to concentrate on one particular murder before moving onto another one i.e. the Conlon murder”. My investigators spoke to Police Officer 7 but he could not recall the details of this investigation.

The Murder of Mr Aidan Wallace on 22 December 1991

Pre incident intelligence

- 8.34. Mr Wallace was murdered on 22 December 1991 while playing pool at the Devenish Arms Inn, Finaghy. My investigation did not identify any intelligence indicating police had prior knowledge that UDA/UFF were intending to murder Mr Wallace or attack the Devenish Arms Inn

Post incident intelligence

- 8.35. SB received numerous intelligence reports in connection with the murder of Mr Wallace.
- 8.36. The first piece of intelligence my investigators identified was received by police the day after the murder of Mr Wallace. It stated that the attack had been in retaliation for a republican paramilitary attack on the Donegall Arms, Donegall Road on 21 December 1991, which resulted in the deaths of two men. The information also reported that Person B was involved in the murder.
- 8.37. Intelligence received by police in late December 1991 reported that Person U, driven by Person T, had carried out the murder of Mr Wallace.
- 8.38. Person T and Person U were both arrested and questioned about the murder of Mr Wallace.
- 8.39. In January 1992 police received intelligence that Person FF may have been involved in the murder of Mr Wallace. There is no evidence that this intelligence was disseminated to police investigating the murder of Mr Wallace.
- 8.40. Intelligence received by police in November 1994 reported that Person U and Person W had participated in the attack. This investigation did not identify evidence of this intelligence having been disseminated to police investigating the murder of Mr Wallace.

The attack at Sean Graham Bookmakers on 5 February 1992

- 8.41. Following the murders of four men and a fifteen year old boy at Sean Graham Bookmakers, Ormeau Road, Belfast, at 5:30pm on the same day the following message was received by the BBC from an anonymous caller using a recognised code word: *“this afternoon UFF volunteers carried out an operation on members of the most active unit of PIRA which is based on the lower Ormeau/Markets area. This area has become a cesspit of republicanism and as such the UFF targeted Sean Grahams. The UFF are confident that at least two well- known players have been executed. Remember Teebane.”*

Pre incident intelligence

- 8.42. This investigation did not identify specific intelligence received by the RUC prior to 5 February 1992 relating to plans for an attack by loyalist paramilitaries at or near Sean Graham Bookmakers. However, information was received prior to the attack which proved to be highly relevant to the incident.
- 8.43. Following the murders of eight Protestant workmen by the IRA on 17 January 1992 at Teebane Crossroads, police were soon receiving intelligence that the UVF and UDA/UFF were planning to convene a meeting to discuss retaliation. The week before the attack at Sean Graham Bookmakers police received further information that militant members of both loyalist organisations were pressing for a violent response, similar to that of Teebane, accompanied by communication to Nationalist politicians and Catholic religious leaders that the IRA should be held responsible for such an attack.

- 8.44. In late January 1992 police received intelligence that an East Belfast UVF member had supplied a named unit of the East Belfast UDA/UFF with two AKs and two Browning pistols for use in an internal feud.
- 8.45. Intelligence indicated that at a meeting of the UDA/UFF's Inner Council on 25 January 1992, UDA/UFF Brigadiers agreed that there should be an increase in UDA/UFF operations. On the same day police received intelligence that East Belfast UDA/UFF were planning a response to Teebane in the North Down area.
- 8.46. In early February 1992 police received intelligence that a named East Belfast unit of the UDA/UFF had passed an AK to the UDA/UFF in Tullycarnet, two months earlier.
- 8.47. Person A resided in Tullycarnet. Person A was subsequently arrested in possession of the VZ58 rifle used in the murders at Sean Graham Bookmakers and admitted having held the firearm until shortly before the attack. Police had intelligence coverage of the UDA/UFF at the time that would, in my view, have been in a position to report to police on the movement of this VZ58 rifle. This investigation has not, however, identified records indicating that police received information relating to the movement of the rifle to Tullycarnet from where it was conveyed to South Belfast UDA/UFF. Subsequent intelligence received by police also indicated that the assault rifle used in the attack had been supplied by East Belfast UVF.
- 8.48. On 4 February 1992 police surveillance observed Person N, a senior figure within West Belfast UDA/UFF, meeting with four unidentified men. The PSNI have been unable to recover photographs taken by the RUC surveillance team of this meeting in 1992. However, the surveillance records detail that the four men got into a car which was registered to Person Q, a senior

commander of South Belfast UDA/UFF. On the same day police received separate information concerning Person N's involvement in the movement of a Browning 9mm pistol. This investigation found no evidence that any of this information was shared with police investigating the murders at Sean Graham Bookmakers.

Post incident intelligence

- 8.49. This investigation has established that following the attack, SB received a significant amount of intelligence in relation to the attack at Sean Graham Bookmakers. The information varied in quality, ranging from speculative in nature to that which was assessed by police as likely to be reliable. The volume of intelligence and numbers of sources involved, reflects the scale of the RUC's intelligence coverage of the UDA/UFF in Belfast at that time.
- 8.50. Soon after the attack intelligence was received by SB, in which Person W, Person BB and Person B were reported to have been responsible for the attack. The identities of the three suspects were promptly shared with the murder investigation team. The three suspects were reported to have been at Taughmonagh Social Club on the evening following the attack at Sean Graham Bookmakers. Persons Z and AA were reported to have been with the suspects at the club.
- 8.51. The intelligence naming Person W, Person BB and Person B as being directly involved in the attack was to be a recurring feature of intelligence received by police in connection with the murders at Sean Graham Bookmakers.

- 8.52. The intelligence continued that following their 'celebration' in the social club, Persons W, BB and DD had re-located to the Highfield Estate in West Belfast where they remained on the night of 5 February 1992 before re-locating to the Shankill area the following day where they were accommodated by Person N. Dissemination of this intelligence to the murder investigation team does not appear to have occurred for a number of days.
- 8.53. Further intelligence was received by SB in mid-February 1992 which reported that Person N had indicated he had been involved in the attack at Sean Graham Bookmakers. The information did not describe the role performed by Person N. There is no evidence that this intelligence was disseminated to the murder investigation team.
- 8.54. Person B was arrested on 10 February 1992 while Persons W and BB were arrested on 17 February 1992. None of the men made admissions to involvement in the attack at Sean Graham Bookmakers.
- 8.55. Other intelligence received by SB in early February 1992 included a report that the intended target of the UDA/UFF on the day of the murders at Sean Graham Bookmakers had been the Hatfield Bar. The plans had been altered when the UDA/UFF observed only a small number of people in the Hatfield bar. This intelligence was supported by further reporting in mid-February 1992. This investigation saw evidence within the murder investigation papers which suggests this intelligence may have been disseminated to the police investigators.
- 8.56. Person AA, who was linked to a getaway car used by those responsible for the murders at Sean Graham Bookmakers was charged with the murders but the charges were subsequently withdrawn. As previously stated, Person

A, who was found in possession of the VZ58 used in the attack, was charged and convicted in connection with his possession of the firearm.

- 8.57. In mid- February 1992 SB received further intelligence that Person B and Person BB had been at a flat in Annadale, South Belfast, immediately before committing the murders at Sean Graham Bookmakers. Although the involvement of the named individuals was passed to the murder investigation team, who had already identified the two as suspects, this investigation found no evidence that the intelligence relating to the flat was subject of enquiries. Either this aspect of the intelligence was not disseminated to the police investigators or the investigation team chose not to conduct related enquiries.
- 8.58. It should also be noted that the RUC received intelligence which suggested another person's house was used before and after the attack. The house was searched and a firearm and grenades were found. He was arrested but was not connected to these murders.
- 8.59. On the 4 February 1992 Person U was overheard talking to another person about plans for a gun attack at a shop on the lower Ormeau Road the following day. This information was passed to the police in mid-February 1992. Person U was never arrested or interviewed in connection with the murders at Sean Graham Bookmakers.
- 8.60. SB subsequently received intelligence in late February 1992 that a person (who police assessed could have been Person AA) and another man from the South Belfast area of Annadale Flats were involved in the murders. The intelligence also indicated the involvement of a third unnamed person. The intelligence relating to the two suspects was disseminated to the murder investigation team but again not the reference to Annadale Flats. Person

AA had already been charged in connection with the murders and there was no evidence that the other named individual was subject of investigation.

- 8.61. Police Officer 9, the SIO who led the murder investigation into the attack at Sean Graham Bookmakers, made a note at 9:00am on 11 February 1992 that he had been advised by SB that Persons W and BB were currently in the Shankill area of West Belfast and 'would be happy' to surrender to police after they 'signed on'.
- 8.62. In mid-February 1992 intelligence received by police identified a man, believed to have been associated with East Belfast UDA/UFF, as having organised the attack at Sean Graham Bookmakers. This intelligence was shared with the murder investigation team. However there were no corresponding investigative actions undertaken in respect of this individual.
- 8.63. In mid-February 1992, SB received information that the owner of one of the cars used in the murders at Sean Graham Bookmakers was directly involved in the attack. Prior to receiving this intelligence the murder investigation team had identified two cars which they suspected to have been used in the attack and had interviewed two men. The owner of the car believed to have conveyed the attackers from the scene of the murders, Person BBB, had a sound alibi and was released. He was believed to have been accompanied by Person B when the car was purchased. Person B had already been arrested, questioned and released without charge by mid-February 1992. Person AA, the person responsible for hiring the second car, into which the attackers had transferred in the Bladon Drive area of South Belfast, had already been arrested on 6 February and charged prior to receipt of this intelligence.
- 8.64. Intelligence received by SB in mid-March 1992 reported that a British Telecom Engineer witnessed the gunmen running from the scene of the murders. This intelligence was passed to CID who undertook extensive

enquiries to establish the accuracy of the report. Enquiries with numerous BT employees failed to identify the witness.

- 8.65. In late March 1992 SB received intelligence stating that Person B and Person W had committed the attack at Sean Graham Bookmakers, that Person Z was involved in removing the firearms used and that Person II was the driver of the getaway car. Police commentary attached to this intelligence stated that CID had been informed and that all of the named individuals had at that time been arrested and interviewed by police. Contrary to this commentary my investigation has established that Person Z was not arrested. This intelligence on was reiterated in early November 1994 but on that occasion excluded Person Z's name.
- 8.66. SB received information in late June 1992 indicating that Person U was one of the gunmen responsible for the attack at Sean Graham Bookmakers. His involvement was supported by other information held by the murder investigation team. Person U was not, however, arrested and/or interviewed in connection with the murders at Sean Graham Bookmakers.
- 8.67. In late May 1993 further intelligence was received about the alleged involvement of Person B in a number of murders attributed to the UFF. The information included a reference to an attack at a bookmakers which is believed to have been Sean Graham's. Attached to the intelligence report was commentary that CID were already aware of this information, Person B having previously been arrested.
- 8.68. In May 1997, SB received intelligence that Person EE had been involved in multiple murders, including the attack at Sean Graham Bookmakers, during which he had been accompanied by Person B.

The Murder of Mr Michael Gilbride on 4 November 1992

Pre incident intelligence

- 8.69. Mr Michael Gilbride, a joiner, was murdered on 4 November 1992 at Fernwood Street, Ormeau Road as he arrived at his parents' house for lunch.
- 8.70. This investigation did not identify any specific intelligence indicating police had prior knowledge that the UDA/UFF were targeting or planning to murder Mr Gilbride.
- 8.71. There was general intelligence available to police, including information in mid-October 1992 which indicated that the UDA/UFF were targeting Catholic taxi drivers and building workers in the Ormeau Road area.

Post Incident Intelligence

- 8.72. My investigators established that the first intelligence police obtained in connection with the murder of Mr Gilbride was received soon after the murder. This implicated Person BBB in the murder. This investigation found no evidence that this intelligence was disseminated to police officers investigating the murder.
- 8.73. In mid-November 1992 SB received intelligence reporting that Person JJ may have committed the murder of Mr Gilbride and that Person BBB was responsible for planning the attack. This intelligence was marked 'CID informed' and although the murder investigation papers do not reflect

receipt of the information, this investigation has established that Person JJ was arrested in early December 1992.

- 8.74. In early November 1994, police received a third and final intelligence report on the murder of Mr Gilbride which stated that Person KK was involved in the murder.

The Murder of Mr Martin Moran, shot on 23 October 1993 (and died 25 October 1993)

Pre incident intelligence

- 8.75. Mr Moran was shot on 23 October 1993 while delivering a Chinese takeaway meal to Vernon Court, Belfast. He died of his injuries on 25 October 1993.
- 8.76. The murder of Mr Moran was not claimed by any organisation. In light of the intelligence held by police, I am of the view, that this was a sectarian murder, carried out by loyalists in retaliation for the bombing of Frizzell's Fish Shop on the Shankill Road less than 12 hours earlier.
- 8.77. This investigation did not identify intelligence which might have indicated the murder of Mr Moran was planned prior to 23 October 1993, or that Mr Moran was personally targeted.

- 8.78. In addition my investigators spoke to the owner of the Chinese Restaurant who confirmed that neither he nor his staff or the restaurant had ever been subject of a threat.

Post incident intelligence

- 8.79. My investigators identified little intelligence held by police in respect of the murder of Mr Moran. Information was received by SB in late October 1993 indicating that two named individuals were involved in the murder. This intelligence was disseminated to the murder investigation team and both men were arrested but later released.
- 8.80. The murder of Mr Moran was not claimed by any organisation. Intelligence received by police in late October 1993 indicated that the murder was carried out by the UVF, who were provided with the murder weapon by the UDA/UFF.

The Murder of Mrs Theresa Clinton on 14 April 1994

- 8.81. Mrs Clinton was murdered during an attack which police believed had been directed at her husband, Mr Jim Clinton.
- 8.82. Shortly after midnight on 15 April 1994, the BBC received a telephone call from a male using a recognised UFF codeword: *“The UFF claim responsibility for the assassination of Sinn Fein/PIRA member Jim Clinton within the past hour. Our volunteers after failing to gain entry through the window sprayed the house with gunfire seriously injuring Clinton’s wife.”*

Pre Incident Intelligence

- 8.83. My investigation revealed that police received intelligence regarding the targeting of Mr Clinton from 4 August 1989 to the date of his wife's murder on 14 April 1994. The records indicate that the RUC provided warnings to Mr Clinton on three occasions during 1989. There were, however, no records identified in respect of any further warnings.
- 8.84. Police were aware from 1991 that Mr Clinton was living at Balfour Avenue.
- 8.85. On 7 February 1992 the RUC searched premises at the Shankill Road which they believed were being used by the UDA/UFF and seized documentation in which Jim Clinton's name appeared. Police chose not to warn Mr Clinton in respect of this find, their rationale being 'no action – well aware of current threat from loyalists.'
- 8.86. Mr Clinton's personal details were also noted on documents recovered from the home of Person A during a search in February 1992 which led to recovery of the VZ58 assault rifle used by the UDA/UFF in the murders at Sean Graham Bookmakers. My investigators identified an internal police memorandum directing that Mr Clinton be advised of the find. However, there is no evidence that this was acted on and Mr Clinton told my investigators that he did not receive such advice.
- 8.87. In early January 1994 police received intelligence that the UDA/UFF were targeting two unnamed persons from the Markets area of South Belfast, one of whom was believed to reside in Balfour Avenue.

8.88. This investigation established that SB were tasked to complete a risk assessment on James Clinton, four days after receiving intelligence indicating the UDA/UFF were targeting an unnamed person in Balfour Avenue. It reads:

'Further to your request for a threat assessment on James Clinton at 100 Balfour Avenue, Belfast, I have to inform you of the following information: During a search on a house occupied buy (sic) a known Loyalist a document was found which was headed "IRA terrorists". James Clinton, 16 Balfour Avenue, was one of those named. It has been ascertained 16 Balfour Avenue is an old address of Clintons. Whilst we have no intelligence that Clinton is under threat at 100 Balfour Avenue, the fact that it is only a short distance from his old address could possibly render him a target for Loyalist gunmen.'

8.89. This investigation has not identified evidence that Mr Clinton, or members of his family, was advised of the potential threat to his security identified by police.

8.90. In early March 1994 police recovered documents under the control of the UDA/UFF which detailed personal information relating to a number of individuals. The information also included a description of a car registered to Jim Clinton.

8.91. The circumstances surrounding the recovery of the information in March 1994, point to the involvement of an informant in the UDA/UFF's targeting of members of the public.

8.92. In early April 1994, information was received by the RUC indicating Person BBB was currently targeting a 'top' republican from the Markets. Further intelligence continued prior to the murder that Person BBB was planning to murder a well-known republican from the lower Ormeau Road. Mr Clinton, and/or members of his family were not specifically mentioned in the intelligence. It is, however, noteworthy that Person BBB was quickly implicated in the murder of Mrs Clinton and that this intelligence was disseminated to the police officers investigating the murder.

Post incident intelligence

8.93. Within 24 hours of the murder of Mrs Clinton the RUC had received intelligence that the attack had been carried out by a unit of the UDA/UFF under the direction of Person BBB. Similar information was received by police on 15 April 1994.

8.94. Acting on intelligence, on 15 April 1994 police recovered the firearms used in the attack on the Clinton's home.

8.95. Police also had intelligence on that date that Person LL had been responsible for receiving and concealing the murder weapons. Although police acted to recover the firearms this investigation has not obtained evidence that the information relating to Person LL's involvement was disseminated to detectives investigating the murder of Mrs Clinton.

8.96. Intelligence received by SB in mid-April 1994 implicated Person V, Person Y, Person BBB, and Person LL in the murder of Mrs Clinton.

- 8.97. Also in mid-April 1994 SB received information that Person BBB had been seen at Balfour Avenue 10 minutes before the murder of Mrs Clinton.
- 8.98. After receiving witness evidence that Person BBB had driven a car from the scene of Mrs Clinton's murder, police arrested him one week after the attack. Person BBB did not make any admissions in respect of the murder but said he had been in a local bar with Person Y, who was also then arrested. Person Y offered the same alibi as Person BBB, maintaining they had been drinking with Person LL at the time of the attack. Following a failed identification procedure, which is commented on later in this public statement, both Person BBB and Person Y were released without being charged. Person LL was not arrested.

The Murder of Mr Larry Brennan on 19 January 1998

- 8.99. Prior to his murder in the vicinity of the Enterprise Taxis depot, Ormeau Road where he worked, Mr Brennan had been the subject of loyalist targeting. Police believed this had arisen from conflict with loyalist paramilitaries in the Rathcoole area where his Protestant girlfriend resided.

Pre Incident Intelligence

- 8.100. Between 1984 and 1994, police received repeated information concerning the targeting of Mr Brennan by Loyalist paramilitaries. This investigation did not identify any similar intelligence during the four years preceding Mr Brennan's murder.

Post incident intelligence

- 8.101. The day after Mr Brennan's murder, police received information that an anonymous call had been received from a Spanish telephone number in which the caller claimed the murder had been committed by the 'Spanish Republican Party'. Police enquiries were unable to progress this line of enquiry. Intelligence in late January 1998 indicated that the UDA/UFF were responsible for Mr Brennan's murder.
- 8.102. A number of intelligence reports received by police during the days following Mr Brennan's murder, attributed the attack to the South Belfast UFF, being revenge for the murder of a loyalist by the INLA (Irish National Liberation Army) earlier the same day.
- 8.103. This investigation established that SB received intelligence on the day of Mr Brennan's murder, regarding where the gunman had been waiting for Mr Brennan and this was disseminated to the investigation team.
- 8.104. Further intelligence was received by police shortly after the murder that Person II and another man, both of whom were associated with the South Belfast UDA/UFF, were involved in the attack and that Person II had supplied the murder weapon. The information also provided the identity of a person who had allegedly assisted in the targeting of Mr Brennan and stated that the individual responsible for the murder had gone to Annadale flats immediately after the attack. My investigators found no evidence that this information was disseminated to the detectives investigating the murder of Mr Brennan.

- 8.105. By early February 1998 police investigating the murder had been informed that Person NN had been seen running from the crime scene and was believed to have committed the murder. Intelligence received in February also gave the possible location of Person NN on given dates and he was circulated by police as 'arrest on sight'. Person NN was arrested on 5 March 1998 and following identification by a witness was charged with the murder of Mr Brennan. The charge was, however, subsequently withdrawn after the witness retracted his evidence.
- 8.106. Over one year later, in April 1999, police received information, supportive of intelligence received shortly after the murder, regarding the identity of an individual who had assisted in targeting Mr Brennan. It also provided the address, in the Annadale flats area, to which the person responsible for the murder had gone after the attack and the identities of the occupants whom, it was alleged, had assisted in disposing of evidence. This investigation has identified material within the police investigation papers which suggests this intelligence was disseminated.

Summary

- 8.107. Numerous sources of information reported on the various attacks examined by this investigation.
- 8.108. Police did not communicate a real and imminent threat from loyalist paramilitaries to Mr Clinton shortly after which, on 14 April 1994, an armed attack occurred at his South Belfast home resulting in the death of his wife, Mrs Clinton. If Mr Clinton had been notified of this threat he would have been in a position to consider the urgency with which he might undertake a personal risk assessment and institute security arrangements at his home. This may have impacted on the preventability of the murder of Mrs Clinton.

- 8.109. There is no record that police implemented covert and/or preventative measures, following receipt of information concerning targeting by named members of the South Belfast UDA/UFF in the Finaghy area on 9 October 1991. Similarly, no such arrangements were put in place in relation to intelligence that an attack would take place in the same area in the week beginning 14 February 1991, the same day on which Mr Conlon was murdered.
- 8.110. Following receipt of information that loyalist paramilitaries, and specifically the East Belfast UDA/UFF, were planning a violent response to the murders at Teebane, police informants ought, in my view, to have been in a position to report on the planning of attacks and movement of weapons, and movement of the VZ58 rifle. However, the informants failed to do so.
- 8.111. Intelligence gathering by police on 4 February 1992, the day before the attack at Sean Graham Bookmakers observed a senior member of West Belfast UDA/UFF (Person N) meet four unidentified men who were travelling on board a car registered to a senior commander of South Belfast UDA/UFF. Neither the sighting, nor photographs taken of the meeting, were disclosed to detectives investigating the attack at Sean Graham Bookmakers.
- 8.112. Although some intelligence that became available to police in respect of the attack at Sean Graham Bookmakers was disseminated to the murder investigation team, other important intelligence was withheld, in particular Person N's role in accommodating the suspects, subject of delays or sanitised so as to eliminate highly pertinent information. This may have had an adverse impact on the overall investigation and was almost certainly motivated by a desire to protect sources of intelligence.

8.113. The available evidence identifies numerous occasions upon when it is apparent that SB disseminated intelligence to the murder investigation teams that was already known to police at the point at which it was disseminated. This evidenced in a number of the murders detailed in this report including Sean Graham Bookmakers where intelligence implicating Persons B and AA was disseminated after their arrests.

9.0

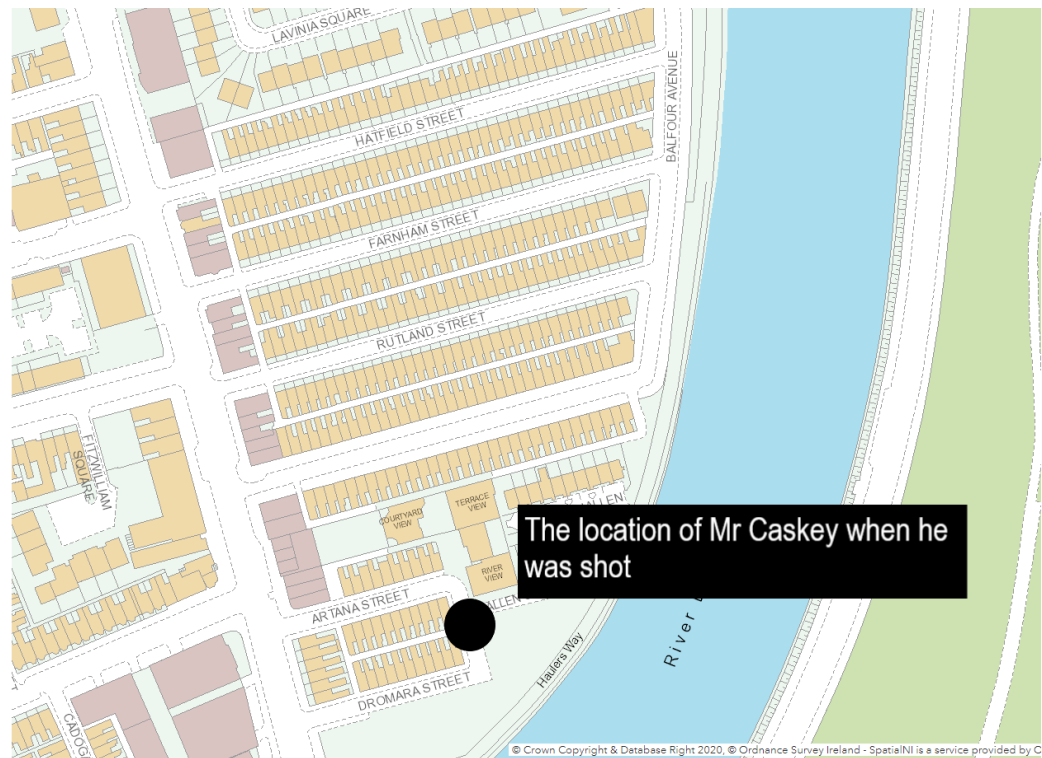
The Attempted Murder of Mr Samuel Caskey

Background

- 9.1. On 9 October 1990, at 8:30pm, Mr Caskey was shot when walking to his parents' home address, in the Lower Ormeau Road area of Belfast. The route taken by Mr Caskey required him to take a short cut through an entry linking Artana Street with Dromara Street. It was while he was walking through this entry that the attack took place. He saw the gunman and heard five to six shots, he sustained one gunshot wound to his back. He ran to a nearby house in Balfour Avenue where he remained until the arrival of an ambulance and the police. Mr Caskey was taken to Belfast City Hospital (BCH) where he received emergency treatment for a gunshot wound to his abdomen. He remained in hospital for five days and subsequently made a full recovery.
- 9.2. The attack on Mr Caskey was not claimed by any paramilitary group.
- 9.3. My investigators have reviewed the RUC investigation by using the remaining archived material retrieved from police and by conducting enquiries with the complainant, witnesses and retired police officers.

Map of the Area

9.4.



The Initial Police Response

- 9.5. Police Officer 11 was the first officer to arrive at the scene. He noticed a large crowd standing at the top of Artana Street next to the entry that led to Dromara Street. Upon stopping, he was informed by the crowd that a shooting incident had taken place and that the victim was in a nearby house in Balfour Avenue. The officer went to this address and saw Mr Caskey sitting in a chair in the living room. He was bleeding from an injury to his lower back. Mr Caskey told the officer what had happened and at this point an ambulance arrived to convey him to BCH. Police Officer 11 then returned to the initial scene to await the arrival of his colleagues.
- 9.6. A RUC Inspector responded to a radio transmission and also attended Dromara Street. He conducted a cursory search of the scene and identified a number of spent cartridge cases and a blue holdall lying in the entry. It

was established that the holdall contained clothing belonging to Mr Caskey and his father was allowed to take possession of it.

- 9.7. The scene was preserved allowing the police and relevant agencies to collate evidence. A police photographer attended the scene and took a series of photographs of the entry which depicted four spent cartridge cases on the ground. The four cartridge cases were subsequently recovered by a scene of crime officer (SOCO) and submitted to the NIFSL for examination. The scene was also mapped.
- 9.8. The police attendance at the scene was swift and investigations began almost immediately.
- 9.9. From examination of the papers, it is noted that the SIO was Police Officer 9 and the DSIO was Police Officer 10. Police Officer 9 is deceased and Police Officer 10 is retired.
- 9.10. Police documentation details that a Major Incident Room was established at Donegall Pass RUC station. The investigation was managed on a paper based system under the MIRSAP and examination of the RUC serious incident log documents that actions were raised to interview witnesses, and to research vehicles of interest. Parameters were set and a team of detectives assigned to conduct house to house enquiries.

House to House Enquiries

- 9.11. House to house enquiries were promptly conducted, with appropriate parameters established, at Artana Street, Dromara Street, Balfour Avenue and Agincourt Avenue. House to house enquiries were also conducted in University Mews where a possible getaway vehicle had been seen.

Reconstruction

- 9.12. The RUC investigation did not reconstruct this incident.

Police Communication with the Victim

- 9.13. There was clear evidence within the police documentation that a number of efforts were made to interview Mr Caskey. A message within the available documentation recorded a visit to Belfast City hospital by Police Officer 12 and Police Officer 13 with a view to speak with Mr Caskey and obtain his account. This message further reported that Mr Caskey refused to speak with police until his solicitor was present. Entries in the Serious Incident Log also made reference to the requirement to interview Mr Caskey and maintain contact with the Caskey family. It documented that police called and spoke with the Caskey family on 10 October 1990.

An entry in the RUC serious crime log and a corresponding action in the original case papers documented this visit to the home of Mr Caskey's parents and the interview of Mr Caskey's father on 10 October 1990.

CCTV

- 9.14. There is no indication within the archived material, examined by my investigators, that CCTV was considered by police.
- 9.15. During the course of my investigation a number of the original witnesses were revisited by my investigators, including Witness 1. He stated "*I remember telling one Policeman what I had witnessed and providing my details. I also pointed out that the building on the corner of Ormeau Road and Agincourt Avenue seemed to have a number of security cameras high up on the walls. The gunman ran in that direction and may have been captured by one of the cameras, if that was what they were. This building*

was a Group 4 Security depot at the time I think and is now the Asian Market....I do not know if they ever followed up on what I told them about the cameras on the Group 4 building”

- 9.16. Witness 1’s remark about telling an officer about the security cameras on the Group 4 building prompted my investigation to examine this issue. My investigators visited the Asian market and were informed that the Group 4 building was at the rear of the site currently occupied by the Asian market and was vacated up to 10 years ago. However, an examination of the external of vacant building, which is now in some disrepair, revealed that there are a number of old-style CCTV cameras still attached high above the entrances. It seems that these cameras only provided a view only of the entrance and exit points to the old Group 4 building and would not have afforded a street view of any passing persons.
- 9.17. No evidence was found, from examination of the available case papers, of this being raised as an action, nor is there any reference to the fact security cameras should have been examined. In spite of Witness 1’s claim that he was sure he would have mentioned this at the time, it is not recorded in his original statement to the police on 9 October 1990.

The Weapon used in the Attack

- 9.18. Forensic examination of the ballistic evidence gathered from the scene at the time established that the weapon used in the attack was a single 9mm calibre Browning type self-loading pistol with ammunition of military origin.
- 9.19. The examination also established that the weapon used in this attempted murder had been used previously in the murder of two people in Belfast in 1988 and in a further incident in 1989. This weapon has never been recovered.

The RUC approach to witnesses

- 9.20. The search for witnesses commenced on the night of the shooting and continued through house to house enquiries.
- 9.21. The shooting was reported by a local resident. He was standing on the corner of Artana Street at its junction with Ormeau Road when he saw Mr Caskey walk into the entryway and, shortly afterwards, heard one or two shots. He then saw a man carrying a pistol running from the same entry across Ormeau Road into Agincourt Avenue and escape in one of two waiting cars which he could not describe. He provided a description of the suspect as 'about 40 years, 5'9", bald head with hair at sides, slim build wearing a short dark jacket and jeans'.
- 9.22. Witness 1 was at home in Artana Street when he heard shots and ran outside to investigate. He also saw the gunman exit the entry and run into Agincourt Avenue. He provided a physical description of this suspect as mid-twenties, stocky with short fair hair. 5'8" – 5'9" in height and wearing a dark coloured padded bomber jacket.
- 9.23. A passing motorist was driving along Ormeau Road in a countrywards direction and as he drove past the junction with Artana Street he heard shots which caused him to look to his left. Upon doing so, he saw the figure of a man walking quickly across the waste ground at the junction of Artana Street and Ormeau Road. He described this man as about 6 foot tall and well built, wearing a khaki fawn Barbour-type jacket.
- 9.24. A 12 year old girl was in Dromara Street when she saw three men going into the entry pulling masks on. One of the men was carrying a gun. She saw Mr Caskey enter from the far end and stated she witnessed the attack upon

him and his subsequent escape. Describing the men as wearing dark clothing she stated the gunman was also wearing a navy jacket which had a grey lining on its hood.

- 9.25. A further witness was sitting on a wall with a friend in Balfour Avenue when she described seeing a man running into the rear of 61 Balfour Avenue by the back door. She described hearing a loud screech of tyres and saw a big, silver car driving very fast against the one way system along Balfour Avenue. This car crossed over Ormeau Road and into Agincourt Avenue.
- 9.26. Most witnesses agreed that the gunman ran into Agincourt Avenue and the majority of those that saw a car acting suspiciously concurred that it was a red saloon.
- 9.27. Two women were in Agincourt Avenue at the time and described seeing a red car speeding along Agincourt Avenue. One of these witnesses recognised the model of the vehicle as an Alpine, although she was unable to obtain the registration number. One of them described the driver as wearing a cap and the passenger was wearing a black leather jacket and had short dark hair, the other witness gave a similar account and described the driver as being in his twenties with light coloured hair. She had only seen one man in the car.
- 9.28. A third witness was in Agincourt Avenue around the time of the shooting when he noticed a red four door saloon car with its window rolled half way down. The vehicle was parked next to an entry and as he walked past this entry he heard a noise and formed the impression somebody was standing in it. A man was in the driver's seat of the car wearing a flat cap which was "pulled down at the front". He thought this male was wearing a shiny leather jacket and described the red car as possibly being an older model Escort.

- 9.29. A dark red saloon car was also seen speeding against the one way system along University Mews at or around the time of the attack.

The RUC approach to suspects

- 9.30. My investigation has revealed that there were no suspects identified either through the RUC investigation or through intelligence either from SB or any other means. There is no documented suspect strategy within the archived material.

Suspect Vehicles

- 9.31. On 10 October 1990, a red Talbot Solara was located in University Mews. This vehicle had been seen the previous evening just after the shooting by an RUC Sergeant and, although the doors were unlocked, and the front windows down, he stated he had no reason to believe there was anything sinister in respect of the vehicle at that time. The police investigation focused on this vehicle as the getaway vehicle.
- 9.32. The vehicle was taken to Dunmurry RUC station where it was photographed and forensically examined.
- 9.33. Enquiries with the previous owner established that it had been sold to a man with an address in Belfast on 15 September 1990. When enquiries were made, nobody by this name lived at the address provided by the buyer to the vendor. Neither had they done so in the past. The officer dealing with this enquiry recommended that the last registered owner be revisited but there is no indication this was done.

- 9.34. Police attempted to fingerprint the sales slip provided by the last registered owner but this attempt failed to identify any suspect.

Identification Parade

- 9.35. There was no identification process as there were no suspects.

Forensics

- 9.36. The ballistic evidence recovered from the scene was examined and identified the weapon used as a single 9mm Browning-type pistol.
- 9.37. Mr Caskey's clothing had also been recovered and submitted to NIFSL. The clothing showed that Mr Caskey had been shot once on the lower back and that the bullet had entered and exited his body. There was no evidence that he was shot at close range.
- 9.38. The getaway car was considered to be a Talbot Solara recovered from University Mews, Belfast. The vehicle was taken to Dunmurry RUC station where it was photographed and forensically examined. The SOCO recovered tape lifts from the upholstery and footwell areas, along with ancillary items from within, such as the contents of the ashtray. These items were subsequently submitted to the NIFSL. A report dated 12 November 1990 documented the return of all these items from NIFSL to the RUC and that, due to there being nothing to compare them to, no comparison could be made at that stage. That was because there had been no arrests. The vehicle was examined for the presence of latent fingerprint impressions with a negative result.

9.39. There is nothing in the material reviewed by my investigators that would indicate consideration was given to examine any recovered items from the car itself for the presence of Gunshot Discharge Residue (GDR) in order to fully determine that this was in fact the getaway vehicle used. This is surprising given that in the event of future arrests, it is likely that clothing attributable to suspects would be submitted for analysis.

Intelligence and other Information

9.40. There is nothing in the case papers to indicate what, if any, intelligence was provided to the investigation team that would provide for significant lines of enquiry which the enquiry team could follow.

Missed investigative opportunities

9.41. A number of lines of enquiry, although documented in the case papers, remain unresolved and represent gaps in the RUC investigation. In the absence of properly documented decision making it has not been possible to establish:-

- I. Whether or not any enquiries were raised in respect of potential CCTV which may have captured the assailant/s or the vehicle involved, or if it was considered.
- II. It is not apparent if the suggestion to re-interview the last registered owner of the getaway car was ever acted upon, or if any activity was generated to explore possible paramilitary associations he, or any of his family, may have had.
- III. There is also nothing to indicate that person to whom the getaway car was sold, was ever traced.

- IV. Whether or not any further enquiries were conducted in respect of the weapon and ammunition links to the previous shootings or if the red Talbot Solara was examined for the presence of GDR.

Public Complaints

- 9.42. Mr Caskey has raised a number of allegations or issues arising from the police investigation which are set out below:-

Mr Caskey alleged that police did not retain any record of his attempted murder because they were directly involved in the shooting. Mr Caskey stated that he applied to the Northern Ireland Memorial Fund for college funding but that PSNI indicated they could not trace any existing records concerning the alleged incident.

- 9.43. In 2010 PSNI wrote to Mr Caskey's solicitor and stated '*unfortunately, having checked our computer records system and archives at Seapark, I cannot trace any existing records concerning the alleged incident. The Northern Ireland Memorial Fund was informed of this, on 5 March 2009.*'

- 9.44. This investigation has established that the relevant RUC investigation papers still exist. My investigators retrieved material from PSNI in June 2014 relating to the attempted murder of Mr Caskey. The relevant documentation was contained within a single A4 size box and included the Serious Incident Log, original statements, MIR actions and messages, house-to-house enquiry forms, and forensic reports.

- 9.45. The correspondence Mr Caskey's solicitor received in 2010 was written by a civilian member of PSNI staff, Civilian Staff Member 1. The actions of civilian staff members do not fall under the legislative remit of this Office. However, my investigators engaged with Civilian Staff Member 1 who explained that a number of searches were conducted on relevant police

databases, in addition to other archived records. These searches did not identify any documentation relating to the attempted murder of Mr Caskey. A previous search in March 2009, following correspondence from the Northern Ireland Memorial Fund, also resulted in no documentation being located.

- 9.46. The existence of the relevant RUC investigation papers does not negate the complainant's belief that the police were directly involved in his attempted murder. However, it demonstrates that records of the attack exist, and that police initiated a criminal investigation. Although Mr Caskey's solicitor was told that there were no records relating to his attempted murder, I am satisfied that these were held within the police estate when his solicitor placed the request in 2010. I am unable to explain why these records were not located during searches of PSNI databases and archived records in 2009 and 2010.

Mr Caskey believed that police were in receipt of sufficient information that they could have acted upon in order to prevent the attempt on his life.

- 9.47. The extent of the police presence on the evening of 9 October 1990 has been the subject of research and investigation. Enquiries were made with the PSNI as to the existence of any records or logs which would demonstrate the level of police activity in that area at that time. The PSNI have no records available from the period which assist with this, apart from a reproduced verbatim account taken from a Duty Officers Report (DOR) that refers to the incident.

- 9.48. My investigators have also sought to clarify VCP deployment at the time of the attack but have found that records no longer exist. Intelligence records from 1988/1989 indicate that Mr Caskey may have been under threat from

Loyalist paramilitaries. As already mentioned earlier in this public statement, there is no indication police were in receipt of specific intelligence that pointed directly to this attempt on his life in October 1990.

Mr Caskey alleged that, when he told police he had been shot, they sneered at him and walked out of the house.

9.49. My investigators spoke with the occupant whose house Mr Caskey had attended after the shooting. He provided my investigators with a statement and, in respect of this allegation, he stated “...*both officers seemed to me to be completely disinterested and oblivious to what was going on. The impression I got was that they knew who Sam Caskey was and didn't seem to care about what had happened. They did not attempt to help him in any way or look at and assess his wounds or injuries. I cannot remember if they did or didn't say anything but they were definitely stand offish, non-helpful and disinterested. It is ingrained in my memory that the police didn't care at all and this made me very angry*”.

9.50. Police Officer 11 was among the first officers on the scene and he produced a statement on 13 October 1990. He stated that he spoke with Mr Caskey, who provided him an account of what had happened. When the ambulance crew arrived to deal with Mr Caskey, the officer returned to the initial scene to await the arrival of colleagues. Police Officer 11, now retired, assisted my investigation and provided a statement to my investigators on 23 October 2015 in which he denied any suggestion he was flippant or sarcastic towards Mr Caskey.

Mr Caskey alleged that police did not contact him regarding this attempt on his life either while he was in hospital or after he was discharged from hospital. Mr Caskey also stated that police officers told him that he was shot by the “ones from Annadale Flats. The

complainant feels if police knew who shot him then they should have been prosecuted”.

- 9.51. My investigators recorded statements from both Mr Caskey’s brother, and his partner at the time. His brother stated that police attended the hospital on the night of the attack and stated it was because they had had complaints from the staff about noise. He stated that police left a short time after they arrived and did not return. He stated that police did not attempt to speak to his brother about the incident. Mr Caskey’s partner stated that police had attended the hospital on the night of the attack to see Mr Caskey and that they went down to his ward. However, she is unsure whether they spoke with him or not. She stated that they left a few minutes later. She stated that she went to see Mr Caskey as soon as the officers left and he was asleep. In her opinion, in his condition, Mr Caskey would not have been able to speak to police about the incident. She visited Mr Caskey numerous times during his stay in hospital and did not see police again. Mr Caskey did not tell her he had been visited by police.
- 9.52. Within the RUC case papers is a record of Police Officer 12 and Police Officer 13 visiting the ward at Belfast City Hospital on the night of the shooting to obtain an account from Mr Caskey. At this time they approached a member of medical staff, Witness 2, and requested she inform Mr Caskey that they wished to interview him about the shooting. Police Officer 12 recorded that Mr Caskey refused to speak with them until his solicitor was present.
- 9.53. Police Officer 12, now retired, engaged with my investigation and provided a statement to my investigators. He recalled attending Belfast City Hospital on the night of the attack and that he saw Mr Caskey sitting up in bed talking to family and friends. Police Officer 12 stated that he asked Witness 2 to tell Mr Caskey that he wished to speak with him but that Mr Caskey had told Witness 2 he would not speak to police until he had spoken to his solicitor.

Police Officer 13 also made a statement to my investigators and recalls going to Belfast City Hospital to see Mr Caskey but does not recall any further details.

- 9.54. My investigators traced and spoke to Witness 2, Unfortunately, she had no recollection of Mr Caskey as an individual, stating that she had responsibility for hundreds of patients during that period. However, she was able to confirm that it would have been normal practice for visiting police officers to seek permission from the medical staff prior to approaching patients on the ward.
- 9.55. An entry in the RUC serious incident log recorded an action for a Detective Constable to continue liaising with the Caskey family with reference to the progress of the investigation and condition of the victim. A further entry in the same document records Mr Caskey refused to speak to police until his solicitor is present. When asked to arrange an interview with his solicitor present Mr Caskey stated he would be doing nothing about this until he was released from hospital.
- 9.56. Mr Caskey's father also engaged with my investigators. He stated that he had visited his son in hospital a number of times and while there were police officers 'milling about' he did not see any talking to Sam. He recalled that a plain clothed officer called at his home a couple of days after the shooting. The officer asked him for any information he had as to who was responsible for the shooting, stressing that it was important they were caught. He stated this detective seemed to be trying to do his best and was writing down some notes.

Mr Caskey was told by his partner at the time that uniformed officers who attended the hospital were verbally abusive and an officer referred to his hospital room in a derogatory manner.

- 9.57. My investigators traced and spoke with Mr Caskey's former partner, who provided a statement to my investigators. She described two uniformed police officers visiting the hospital on the night of the shooting and being abusive, using phrases such as '*is he dead yet?*', and a derogatory comment about the state of the hospital room Mr Caskey was in. She also described how she was concerned when the officers went into the ward to see Mr Caskey as she was afraid of them "*touching anything or being confrontational*".
- 9.58. Mr Caskey's brother described to my investigators how there were approximately eight or nine family and friends at the hospital shortly after the shooting. He stated that police attended the hospital and were abusive, telling the family and friends, that some of them would need to leave. The officers stated they had received complaints from hospital staff about the noise.
- 9.59. The allegation is that two attending police officers behaved abusively and unprofessionally. While clearly, if accurate, it would portray an ambivalent and discourteous attitude on behalf of the attending officers, there is insufficient evidence to conclude on this aspect of the complaint.
- 9.60. ***Mr Caskey alleged that he received threats to his life from different police officers on different occasions while at Castlereagh holding centre. He also alleged that there were many occasions when uniformed police officers on the street made threatening comments to him.***

9.61. Mr Caskey did not recall the events for which he was arrested and questioned or the police officers involved. Even to establish possible dates of arrest, arresting officers, custody sergeants, gaolers would not provide conclusive evidence to determine all the officers that Mr Caskey came into contact with on each occasion. Mr Caskey can no longer recall key details such as names of officers, descriptions of officers, dates of arrests or alleged threats. In these circumstances there was insufficient information to put to an officer during an interview.

9.62. In respect of the officers who made comment to him on the street, this allegation cannot be progressed as Mr Caskey can provide no information that could help identify the officers.

Mr Caskey also stated that, sometime after the shooting, a police officer referred to him in a derogatory manner to his sister's boyfriend, and that officer also said "you tell him we will get him next time". He believed that this officer may have been murdered by the IRA.

9.63. There is no third party evidence to support this complaint. There are no times or dates mentioned in the complainant. Mr Caskey described, in his statement, that the officer involved was murdered by the IRA and, therefore, it is not possible to establish these facts. For these reasons, this allegation cannot be progressed.

Mr Caskey also stated that he was told by HET officers that the gun found after the massacre at Loughinisland was linked to his attempted murder.

9.64. The weapon used in Mr Caskey's attempted murder was one of two weapons used in a murder in East Belfast. It was the second of these

weapons used in the East Belfast murder which was found after the attack at Loughinisland. The gun used in the attempted murder of Mr Caskey has never been recovered. The actions of HET officers do not fall within the legislative remit of my Office.

10.0

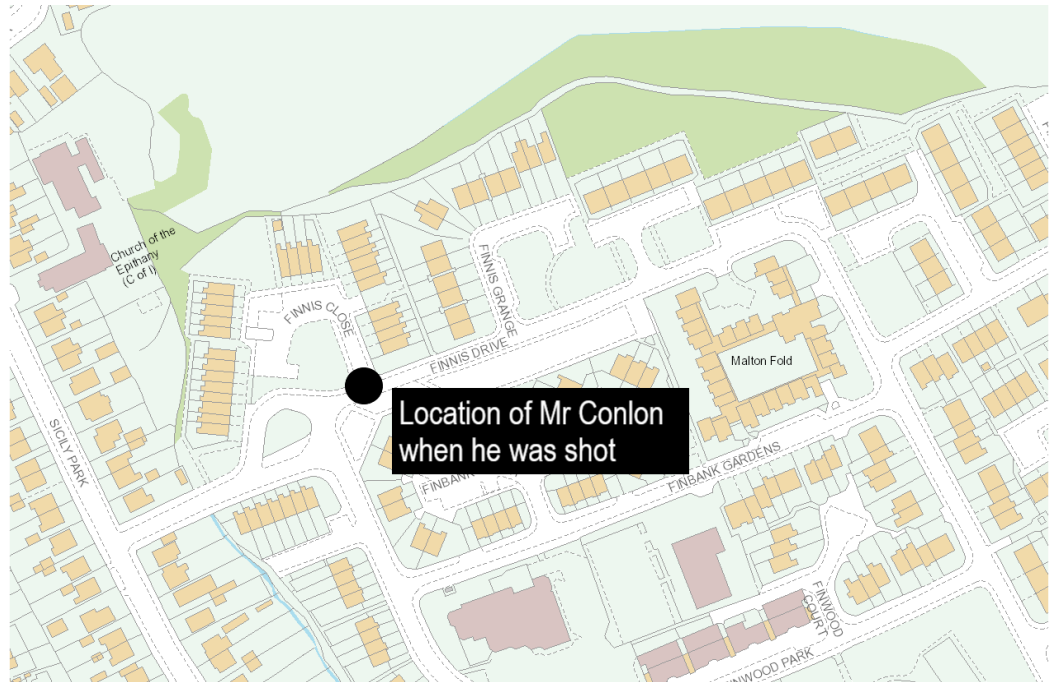
The Murder of Mr Harry Conlon

Background

- 10.1. Mr Conlon was employed as a driver for STS Taxis, Belfast. On the 14 October 1991, he collected a fare by the name of a 'Mr Robinson' from the Devenish Arms Inn on Finaghy Road North, Belfast to be conveyed to the Errigle Inn, Ormeau Rd. At 10:17pm Mr Conlon was found in his car at Finnis Drive, Belfast having sustained gunshot wounds.
- 10.2. In a telephone call to the BBC, the UDA/UFF admitted responsibility for the murder of Mr Conlon. They stated: *'they were not involved in a campaign against taxi drivers but wish to state that the taxi firms of STS, Brooke and Apollo are openly involved with the Republican movement in surveillance and intelligence work in Loyalist areas of South Belfast'*.
- 10.3. No persons were ever prosecuted for the murder of Mr Conlon.

Map of the area

10.4.



The Initial Police Response

- 10.5. The SIO, Police Officer 9, now deceased, was assisted by Police Officer 16 and Police Officer 7. The incident room was at Dunmurry RUC Station and the HOLMES room was at Musgrave Street. The HOLMES account for this case has also been reviewed.
- 10.6. A nearby police mobile patrol received the report of the shooting at 10.17pm. They were the first of the emergency services to arrive at the scene followed shortly afterwards by an ambulance. First aid was attempted but was unsuccessful.
- 10.7. A Serious Crime Log was commenced and details that SOCO, photography, mapping and the military attended the scene. A press officer

also attended the scene. A number of cordons were established and witness details were recorded.

10.8. A police dog handler was tasked to the scene and a search was conducted along a track, indicated by the dog, which led away from Mr Conlon's car, but with negative results.

10.9. On the 15 October 1991 house to house enquiries which included the Taughmonagh Estate, enquiries with the Devenish Arms Inn, enquiries with STS Taxis and a media appeal were all prioritised.

10.10. The scene was also searched again in daylight on 15 October 1991 retracing the route indicated by the tracker dog. This demonstrated good policing practice to ensure that no items of investigative or forensic significance were missed during the initial examination in darkness. The scene was photographed again in daylight.

House to House Enquiries

10.11. A large area was covered during house to house enquiries, which were conducted at almost thirty locations. The whole of the Taughmonagh Estate was subject of house to house enquiries. An extensive area was selected 'to maximise the potential responses from members of the public'.

Reconstruction

10.12. On 16 October 1991, the SIO documented a decision that no reconstruction would be conducted as the incident had received widespread coverage in the local media and all avenues had been

explored. All houses in Taughmonagh were included in the house to house enquiries, as were access routes to and from the area.

10.13. However, on 21 October 1991, between 9:30pm – 10:30pm, police performed a vehicle check point in Finnis Drive, Taughmonagh, in an effort to identify motorists who would have travelled along Finnis Drive on the evening of the murder. Approximately 30 vehicles were stopped and 13 questionnaires were completed.

10.14. There was no documented family liaison strategy in this police investigation. A police Family Liaison Officer (FLO) was not a specific police role at the time of these murders. This role was not introduced into the RUC until in or around 2000. Therefore no Family Liaison Logs exist in relation to this investigation.

10.15. The documentation reviewed by my investigators indicated that a Detective Sergeant was to “liaise with family”. On 15 October 1991, he spoke to Mrs Conlon about where her late husband normally carried his ID card. It was noted within the policy file that, on 18 October 1991, the Detective Sergeant was to inform the family of the potential of increased media coverage. The same officer also returned property to Mrs Conlon on 19 October 1991. With the exception of these brief notes, there was no documented family liaison strategy, as would be expected today.

CCTV/Passive Data

10.16. Police established that neither the Devenish Arms Inn nor STS Taxis had a telephone system that logged calls which were received or made. Therefore, there was no confirmation that a call was made from the Devenish Arms Inn to STS Taxis.

- 10.17. Enquiries were also made by police with British Telecom, to establish if the telephone number from which the call was made could be traced. This could not be established.

The firearm used in the murder of Mr Conlon on 14 October 1991

- 10.18. On 14 October 1991, Mr Conlon was shot while driving a taxi in Taughmonagh Estate. The weapon used in the attack was identified by police as a .455 calibre revolver, which had no previous history of use. It was used in a subsequent murder during January 1993, in the Ormeau Road area, which was claimed by the UFF. There is no record of the firearm having been recovered by police.
- 10.19. A number of bullet heads were recovered from the scene of the shooting. A forensic examination showed that the likely weapon was a .455 Calibre Webley revolver. No bullet casings were found, as would be expected if a revolver had been used. WERC stated that they believed that this weapon had not been used before.
- 10.20. WERC informed the SIO, in a telephone call, that the weapon used was a .455 Webley revolver. The message form stated that it was not definite, but probably used in a murder in July 1989, claimed by the Red Hand Commando. It also stated that further work was to be done. A Detective Sergeant was tasked to obtain the relevant murder file for research. However, in a WERC report dated 25 October 1991, it stated that this weapon had no known history of previous use. A memo from WERC to CID, dated 5 November 1991, also stated that this weapon had no known history of previous use.

Witnesses

- 10.21. My investigation revealed that police made a concerted effort to trace and interview witnesses.
- 10.22. On the 18 October 1991, police issued a media appeal which provided details of Mr Conlon's car and the pick up at the Devenish Arms Inn. The appeal requested that anyone who saw anything suspicious contact the incident room at Dunmurry or the Confidential Freephone number. Further media appeals included the use of a photograph of Mr Conlon and his vehicle for maximum impact. The murder was also featured on Police Six.
- 10.23. Enquiries were conducted with the local church to ascertain if the church, or its facilities, were in use at the time and, if so, instruction was given to interview those in attendance for any relevant information.
- 10.24. Enquiries were also conducted with Citybus to identify vehicles that would have been in the area at the time. The schedule showed two buses in the area at the time, the drivers were identified and spoken to but with negative results.
- 10.25. Two key witnesses were identified by police. The witnesses were Witness 4, who found Mr Conlon in his car having been shot, and Witness 5, who was in the Devenish Arms Inn car park at approximately 10:00pm on the night of the attack.
- 10.26. Witness 4 heard two gunshots and saw a person running from the direction of Mr Conlon's car. Witness 4 then walked the short distance to where he found Mr Conlon in his car. He described the man he saw as: *'Approximately 5ft tall wearing jeans and a Barbour Jacket with a big hood*

who appeared splay footed'. Witness 4 stated he would not know this person again.

- 10.27. Witness 5 was visited by uniformed police during house to house enquiries. He provided a statement to police stating he had been in the car park at the Devenish Arms Inn at 10:00-10:05pm and saw a man standing near the lounge door. As he was parking, the male stepped forward, as if to look at Witness 5's car, then returned to his position.
- 10.28. This witness stated that he thought this person appeared to be waiting for a lift or taxi and described him as: '20-25 years, 5'5" tall, slim build, short and straight brown hair. This person was unshaven and wearing a dark coloured anorak which appeared to have two colours in it. This person was also wearing dark trainers.
- 10.29. Police spoke with the radio operator for STS taxis who stated that at 9:00pm he received a call from a 'Mr Robinson' requesting a taxi for one person from the Devenish Arms Inn at 10:00pm to go to the Errigle Inn. The operator spoke with Mr Conlon at 9:55pm, instructing him to pick up a fare at Fruithill Park and then to go and do the pick up at Devenish Arms Inn. He stated that he called Mr Conlon again on the radio at about 10:20pm but received no reply. Police obtained a statement from the last known taxi fare who Mr Conlon had collected at Fruithill Park. Police also obtained statements from staff and customers whom they identified as being present in the Devenish Arms Inn on the night of the murder. Neither of these led to further lines of enquiry.
- 10.30. A man contacted police and stated that he had met three women while working in London and agreed to meet them in Devenish Arms Inn on his return to Belfast on 3 October 1991. After the murder of Mr Conlon, he had been in a local bar and been told that Conlon had been set up by a couple of women. After reporting this, police traced and obtained witness

statements from the three female customers. There was nothing in the documentation to suggest that any further action was required.

10.31. Witness 6 made a statement to police. He was working as a part time delivery man. On 12 October 1991, he had been sent to deliver a meal to a house in Taughmonagh. As he got out of his car, he noticed the house was in darkness and he noticed a man approach him with a large pistol. The man with the gun asked him “what he was” and Witness 6 was unsure what he meant but retrieved his licence from the car and showed it to the man. He then got into his car and drove away. He described the man as 5’5, 16-20yrs, slim build, with dark hair. The man was wearing a wax type coat.

10.32. This incident was only a short distance from where Mr Conlon was shot and the description Witness 6 provided of the gunman is consistent with descriptions provided by witnesses of the gunman in the murder of Mr Conlon.

Suspects

10.33. On the 20 November 1991, Police Officer 7 detailed in a policy log that Person WW was to be arrested due to intelligence. On 9 December 1991, Person WW was arrested and interviewed 10 times over two days. He denied any involvement with loyalist paramilitaries, denied allowing his house to be used before, during, and after the murder, and denied any personal involvement in the murder. He was released without charge. Person WW lived particularly close to the scene and information contained within the RUC policy file also indicated that the phone call to the taxi firm was made from his home, and that the gun team went to his address after the shooting. Therefore, it is surprising that there was no search of his home.

- 10.34. On the 29 October 1991, a Detective Inspector noted in a policy log that Person X was to be arrested on the basis of intelligence. Person X was arrested on 20 November 1991. He was interviewed 10 times over two days and then released without charge. He denied any knowledge of, or involvement in, the murder. There was no indication in the murder file that Person X's house was searched by police.
- 10.35. Police Officer 7 documented his intention to arrest Person U on 14 January 1992 due to intelligence. Police had received information that he had been boasting that he was the fare that Mr Conlon had picked up on the night of the murder. On 14 January 1992, Person U was arrested and interviewed in connection with a shooting at the Devenish Arms Inn in which Mr Wallace was murdered and others were injured. He was not charged with any offence. A policy decision documented by Police Officer 7, detailed that Person U was not to be interviewed in connection with murder of Mr Conlon at that time, as it was felt that it was better to concentrate on one particular murder before moving onto another. There is no indication in police records that Person U was questioned at any time about Mr Conlon's murder.

Suspect Vehicles

- 10.36. Police received an anonymous phone call from a caller stating that they were driving behind Mr Conlon's taxi and, just as it turned into Taughmonagh, the caller saw a white XR3 following the taxi. The XR3 contained two men with blonde hair, approximately 26-27 years old. The caller gave a partial registration number as 'HIB'. The caller said he did not know who was responsible for the shooting but that they stopped and picked up another man who was standing waiting. The caller identified this person as being from Belvoir and likely to be Person Y.

- 10.37. Police Officer 16 documented his decision that this car was to be fully researched by SB. A further action arising from this information was to research Person Y, who was a member of Ormeau Road UDA/UFF. The research revealed that Person Y had access to a car of this description, which belonged to Person Z. It also established that Person AA and one other person had been driving the vehicle in the weeks prior to the murder. Witness questionnaires used by the murder investigation team, included a question enquiring about a white car in the area at the time.

Identification Parades

- 10.38. Police did not conduct any identification parades in respect of this murder.

Forensics

Crime Scene at Finnis Drive

- 10.39. A SOCO carried out an examination of the area around Mr Conlon's car and recovered parts of a seat belt and glass from the ground.

Vauxhall Carlton - Mr Conlon's car

- 10.40. The vehicle was subject of a fingerprint examination during which, prints were lifted. A document within the RUC material lists 49 names, believed to have been associated with the UVF/UFF. Fingerprints recovered from the scene were compared against these individuals with negative results.
- 10.41. The vehicle was scientifically examined which established that there was blood-staining to the driver's seat and that the side window was broken. A control sample of the glass was taken and the interior of the car was

examined for bullets. As a result of this examination, a 'damaged nickel jacketed' bullet head was recovered from below the windscreen, on top of the dashboard and a second 'unjacketed' bullet was recovered from inside the front passenger door panel. Both of these bullets were described as being .455 calibre by the forensic scientist. Tape lifts were also taken from within the car along with samples of the constituent fibres from the seat covers and carpet.

- 10.42. This did not produce any evidence which would definitively place any suspect in the vehicle at the relevant time. The available records did not clarify whether the tape lifts were ever examined for the presence of GDR and, consequently, this investigation was unable to assess whether or not the police fully maximised the forensic opportunities available to them.

Post Mortem

- 10.43. The post mortem examination was conducted at Belfast City mortuary. Cause of death was recorded as bullet wounds of the head. During the course of the post mortem, two bullet heads were recovered from Mr Conlon. A SOCO also attended the post mortem and recovered clothing, head hair combings and the two bullet heads mentioned above, which were submitted to NIFSL for examination.

- 10.44. The forensic scientist who examined the clothing of the victim, reported that bullet holes were located in the right chest and shoulder region of Mr Conlon's jacket and shirt. The pattern of blood-staining indicated a head injury and nothing was found to indicate that the muzzle distance was less than 18 inches from the victim.

- 10.45. The sampling of bloodstains taken from the victim's clothing for grouping, and subsequent comparison against any items attributable to potential suspects as the case developed, was indicative of investigative foresight.

Suspects and Forensic Findings:

- 10.46. Person WW and Person X were arrested during the course of the police investigation.
- 10.47. There was no evidence, within the available police material, that demonstrated the forensic approach pursued in relation to either of these individuals. The NIFSL papers, the RUC material and electronic HOLMES account provided no indication what, if any, clothing or other property, was submitted for analysis. Considering the proximity of Person WW's house to the crime scene, I find this surprising.
- 10.48. Retired Police Officer 7 co-operated with my investigation. Although, when he was asked specifically about the arrests of Person WW and Person X, Police Officer 7 was unable to speculate on whether or not the home addresses of the suspects were searched. However, he stated he would be "astounded" if they were not. He accepted that there was a gap of weeks between the murder and the arrests. However, he was certain that a full forensic search would have been done. He could not comment further.

Additional forensic material

- 10.49. On Friday 18 October 1991, a police patrol observed a vehicle in which the passenger was wearing a black leather jacket. They briefly lost sight of the vehicle, before stopping it in Olympia Drive. The passenger, Person W, had alighted from the vehicle wearing the black leather jacket. The

officers then noticed a black leather jacket lying in a nearby garden. The surrounding area was wet but the jacket was completely dry inside and out. The jacket was seized as an exhibit and both men in the car denied having any knowledge about the jacket.

- 10.50. On 18 October 1991, the jacket was submitted to NIFSL for examination. The jacket was examined for GDR. A particle conclusively identified as cartridge residue, along with particles characteristic of cartridge residue, were detected in the pockets of the jacket. Nothing of significance was found on the outer surface of the jacket. However, this could not be linked directly to the murder and the jacket itself could not be linked to a suspect.

Intelligence and other Information

- 10.51. On 20 October 1991, a message was received on the Confidential Freephone number from an anonymous caller. The caller stated that the person who shot Mr Conlon was Person X. An action was raised to research Person X and he was arrested on 9 December 1991.
- 10.52. An action was raised to research Person Y as a result of information that was disseminated from SB to the enquiry team on 16 October 1991. However, he was not subsequently arrested and my investigation has not established a reason for this.
- 10.53. Further information from SB was disseminated to the enquiry team, stating that, from the description of the suspect, it could be Person XX or Person II. Actions were raised to research these people. However, they were not arrested by police and my investigation has been unable to establish a reason for no arrest in the circumstances.

- 10.54. Police received anonymous information, stating that a man identified as member of Ballymacash UDA/UFF, may have been involved in Mr Conlon's murder. Research on this person suggested that he was involved in various paramilitary activities, including punishment beating, possession of firearm and hijacking of a vehicle. There was no other information or evidence linking him to the investigation.
- 10.55. Police received an anonymous telephone call from a caller who saw a man getting into a taxi at the Devenish Arms Inn, Finaghy at 10pm. The caller described him as being 5'8" tall, early 30s, thin build, gaunt face, dark, short hair, dark moustache, and wearing a black leather jacket. There are no actions linked to this message. However, witness enquiries were made at the Devenish Arms Inn and quite a number of persons who were in the bar on the night of the murder were interviewed.
- 10.56. Intelligence received from SB suggested that Person W was in the area at 11:15pm on night of the murder and was wearing a dark leather jacket. The officers who had stopped Person W on 18 October were clearly aware of the significance of the black leather jacket.

Missed Investigative Opportunities

- 10.57. Person X and Person WW were arrested by police. However, there is nothing in the case papers to indicate that their homes were searched. If this was the case, then evidential and forensic opportunities could have been lost.
- 10.58. Person U was not interviewed in connection with the murder of Mr Conlon as he had not admitted to the murder of Mr Wallace at the Devenish Arms Inn in December 1991. Although he did not admit to Mr Wallace's murder,

it cannot be assumed that he would not provide information during any interview about the murder of Mr Conlon.

10.59. A green wax jacket, attributed to Person U, was later seized during the investigation of the murder of Mr Wallace. The jacket was found to have blood and gunshot discharge residue (GDR) on it. The blood was compared against the victims of the Devenish Arms Inn shooting. However, it does not appear to have been compared against the blood of Mr Conlon. Person U was a suspect in Mr Conlon's murder and this may have presented an opportunity to forensically link him to the scene. I am of the opinion that this is a failing in the forensic strategy employed by the SIO.

10.60. There were a number of pieces of intelligence that implicated Persons V, W, Y, Z, AA, BB and CC in this murder. There was no evidence, contained within the investigation papers, that this intelligence was disseminated to the investigation team. The non-dissemination of this intelligence has potentially deprived the SIO from generating new or further lines of enquiry.

Public Complaints

10.61. Mr Conlon's family have raised a number of complaints or issues arising from the police investigation, they are detailed as follows:-

Neither I, nor any member of my family was ever informed by the RUC of any progress or information regarding the investigation of my husband's murder despite numerous requests. This included requests for information regarding the investigation made by our legal representatives.

10.62. It has been well documented over the years, not least in the McPherson report and the findings made by Lord Justice Clark, that, where persons had been murdered or killed in accidents in the years prior to 2000, Police Forces throughout the UK failed the families of the bereaved and did not support them or keep them sufficiently updated. No police service would seek to argue differently.

10.63. There was no documented family liaison strategy in this case as would be expected today. I will deal with the issues about the lack of family liaison at the time in the conclusions chapter of this public statement.

As a result of what we have read in the newspapers, we suspect that this lack of information was as a result of collusion between the informer Person 1 and his SB handlers.

10.64. Consistent with her presumptive policy, the Police Ombudsman will neither confirm nor deny if an individual was, at any time, an informant for police. There is no intelligence or evidence that links Person 1 to this murder.

We have been made aware that a British Army Checkpoint was withdrawn shortly before my husband was shot. We now suspect that the withdrawal of this checkpoint was part of the collusion between the Police and those who murdered my husband.

10.65. This investigation requested the necessary information to address this allegation from the Military, who indicated that there had been an upsurge in loyalist violence in the general area during the preceding five days and patrols had been working in the area. Vehicle check points had been in place at times during these five days. However, there are no records

available that confirm whether or not there was a VCP in place at the time of the murder.

I believe that there was an Army Watchtower in place on a block of flats located in the Finaghy Road South area. I believe that this tower gave those manning it a view into The Taughmonagh Estate. In view of what I have said above, this raises a number of follow on questions relating to the conduct of the investigation. In particular, was this watchtower manned at the time of my husband's murder? If it was manned, what was seen and what was done. If it was not manned, then why not?

- 10.66. This investigation requested the necessary information from the military in an effort to address this query for the family. The military stated that there was no watchtower in this area.

11.0

The Murder of Mr Aidan Wallace

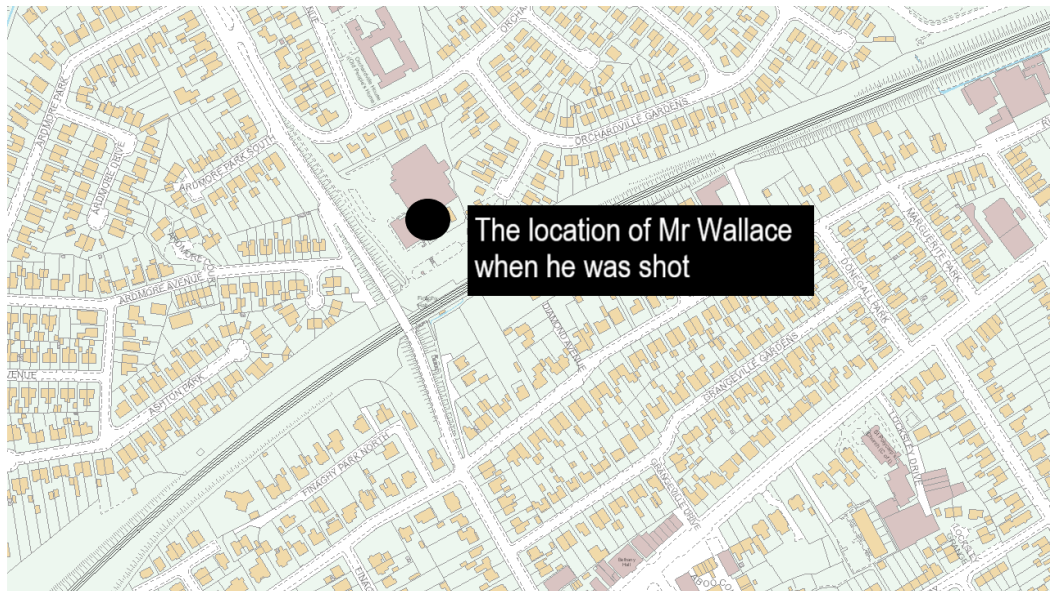
Background

- 11.1. On Sunday the 22 December 1991, at 1.40pm, 22 year old Mr Aidan Wallace and his 16 year old brother visited the Devenish Arms Inn, at 37 Finaghy Road North Belfast, where they played snooker.
- 11.2. At 1:50pm, two masked gunmen entered the snooker hall. One of the gunmen walked up behind Mr Wallace, who was leaning over a snooker table, and fired two shots at the back of his head, fatally wounding him. The other masked gunman walked around the snooker hall and fired indiscriminately at other customers in the bar, injuring several others, including an 8 year old boy, who subsequently lost an eye. The two gunmen ran out of the snooker hall and were seen leaving the area in a blue coloured Vauxhall Cavalier car driven by a third man.
- 11.3. At 7:30pm, the Ulster Freedom Fighters (UFF) contacted the BBC news desk in Belfast and, using a recognised code word, they claimed responsibility for the attack.
- 11.4. The attack on the Devenish Arms Inn took place within 24 hours of another shooting at the Donegall Arms pub in Roden Street, Belfast, where two men were shot dead in an incident claimed by the Irish People's Liberation Organisation (IPLO)
- 11.5. No person has been prosecuted for the murder of Mr Wallace. However, on 6 May 1992, police recovered the 9mm Browning pistol used in the

murder which lead to one man being found guilty for possession of the weapon and sentenced to seven years' imprisonment.

Map of the area

11.6.



The Initial Police Response

- 11.7. Police promptly attended the scene, cordons were quickly established, a scene log commenced, and details of witnesses collated. The first attending officers interviewed four witnesses at the scene who had observed the attackers leave in an old blue 'beat-up' car. This important descriptive information was passed to, and then circulated by, the Belfast Regional Control (BRC).
- 11.8. The scene was attended by two scenes of crime officers, a mapper, a photographer and two officers from the Army Weapons Intelligence Section (WIS). The full examination of the scene was completed at 5:45pm.

- 11.9. Police Officer 15 was appointed the SIO and directed a number of officers to obtain witness statements from persons in the bar at the time of the shooting.
- 11.10. At 3:20pm, two officers located a blue car in Dunmurry. Enquiries revealed the car, a Vauxhall Cavalier, had been stolen earlier that day in Lisburn. A SOCO Iso attended the scene in Dunmurry, which was photographed and mapped, and an examination of the vehicle was conducted. A footprint beside the car was examined and a plaster cast taken of the imprint. The area around the abandoned car was searched by police for anything of an evidential nature without success. In addition, house to house enquiries were conducted by police in this area with negative results.

House to House

- 11.11. Extensive house to house enquiries were conducted in the vicinity of both the shooting and the recovery site of the getaway car. Houses along the route, thought to have been taken by the getaway car, were also visited, as were houses along a pathway that may have been used by the gunmen when they abandoned the getaway vehicle. In total, over 130 homes were visited, house to house forms were largely completed with the phrase 'seen and heard nothing,' except for a resident in Diamond Gardens, who gave a statement detailing a waiting taxi outside his home. The SIO directed appropriate lines of enquiry around this taxi and, as a result, the driver was eliminated from the enquiry.

Reconstruction

- 11.12. On the 29 December 1991, at the same time as the shooting, police conducted a reconstruction at the Devenish Arms Inn. Vehicles and pedestrians were stopped and spoken to and witness appeal leaflets were placed on police vehicles and under the windscreen wipers of cars parked

at the Devenish Arms Inn. CID and uniform personnel were also present in Locksley Place, Finaghy to identify members of the public who may have seen the Vauxhall Cavalier being abandoned on 22 December 1991. Questionnaires were also completed by these members of the public.

Post Mortem

- 11.13. Mr Wallace's body was taken from RVH to Forster Green Mortuary on 22 December 1991. The post mortem confirmed the cause of death was a bullet wound to the head. Samples were taken for toxicology purposes and submitted, along with his clothing and the clothing from the other shooting victims, for analysis at NIFSL.

The RUC communication with the bereaved family

- 11.14. There was no documented family liaison strategy in this investigation. A police Family Liaison Officer (FLO) was not a specific police role at the time of these murders. This role was not introduced into the RUC until in or around 2000. Therefore, no Family Liaison Logs exist in relation to this investigation.

CCTV/Passive Data

- 11.15. There was no CCTV in this case.

The Weapons used in the Attack

- 11.16. An examination of the eight 9mm spent cartridge cases from the scene established they had been discharged from a Browning self-loading pistol. This weapon had no previous known history but was later used in the murders at Sean Graham Bookmakers on 5 February 1992. On 6 May

1992, the pistol was recovered by police and is the subject of detailed commentary, earlier in this public statement.

- 11.17. A single round was identified as being discharged from a .357 Magnum/.38 special calibre revolver. The weapon discharging this round was identified as being used in a murder in 1990.

Witnesses

- 11.18. A priority action at the time for the SIO, was to have all the persons in the Devenish Arms Inn interviewed quickly to obtain as much evidence as possible at an early stage of the investigation. Many of the patrons did not see the gunmen and were unable to give descriptions.
- 11.19. A number of notices about the murder were put up in the bar, and leaflets appealing for witnesses were placed on parked cars in the car park. These included descriptions of clothing the gunmen wore and the vehicle believed to have been involved.
- 11.20. The following day, the manager of the Devenish Arms Inn informed police that a member of his staff, who didn't wish to be identified, had seen the Cavalier in the pub car park and gave a description of the driver as; *'early 20's with dark hair, moustache, small in size as he squatted over the steering wheel and about 5'7" – 5'8" in height'*. On 30 December 1991, police spoke with this member of staff, who confirmed he had seen the car and driver in the car park. He described the driver as *'Small, black hair going slightly grey and a black moustache'*. He saw the car drive off but was unable to give a description of any other occupants. When further interviewed, he was unable to add anything else of significance.

- 11.21. The investigation team made a request for SB to establish if the description of the driver was known to them. The action resulted that the description was too vague to be certain who it referred to but was similar to Person XX. This information was passed onto the enquiry team and Person XX was arrested on 23 December 1991.
- 11.22. A number of witnesses who were present in the Devenish Arms Inn gave broadly similar accounts describing the gunmen as wearing boiler suits and balaclavas. One witness described one gunman as wearing dark tracksuit trousers with black and white trainers.
- 11.23. Another witness, who was on his way to the Devenish Arms Inn, saw a man in Diamond Gardens, one third of a mile away, and again at the pub. He described him as 6' tall, medium to well built, short dark hair, a stubble, wearing a brown leather motorbike jacket and a pair of black jeans with cowboy boots. This witness went into the pub and, while making a phone call, saw two masked men burst in through the entrance. He heard the shots and could only describe one gunman as tall, medium build wearing a black ski mask and a pair of blue overalls.
- 11.24. A member of staff was working at the rear of the Devenish Arms Inn at approximately 12:30pm – 1:00pm. She saw a ginger haired woman in her early 20's and a man who was wearing a brown leather jacket in the car park who appeared to be working at a blue Ford Escort, which was rusty and dirty. They appeared suspicious to her.
- 11.25. A number of statements were recorded from members of the public who lived in the vicinity of where the getaway car was abandoned. However no-one saw anything suspicious.

- 11.26. On the 22 December 1991, at 1:15pm, a 999 call was made by an anonymous caller who stated that “I just overheard a conversation in the club, a shooting is being planned and pick up is expected at the club at 2:00pm”. The caller named one of the men in the club and described him as having ginger hair. This call may be totally unrelated to the shooting at the Devenish Arms Inn but this cannot be determined. Nonetheless, none of the information provided by the caller would have alerted police to the location of the intended shooting or the club concerned.
- 11.27. A police constable stated at 2:05pm he saw two males leave the Cresta Club on the Castlereagh Road and cross the road into Ardgowan Street. One male got into a metallic green Metro car. The other male remained standing on the pavement. This second male was approximately 20 years of age, dark hair and moustache and about 5’9 in height.
- 11.28. The first male was in his forties, wearing dark clothing and around 5’9 in height. He later saw the car with a third male in the rear, also in his forties, wearing dark clothing, and glasses. He then saw a youth approximately 20yrs of age, 5’10 with dirty fair hair wearing light coloured jacket and jeans, running towards the car and getting into it.
- 11.29. A number of enquiries were conducted in respect of this car and information linked it to serious crime. SB identified one of the men as possibly being Person QQ. There was no information that linked Person QQ to the murder and there were no links identified to the green Metro car. The Cresta Club may have been the club referred to in the 999 message but the constable saw the men leaving the club at 2:05pm which was 15 minutes after the attack on the Devenish Arms Inn.
- 11.30. I am of the view that police made concerted efforts to trace and interview witnesses and engage and encourage reluctant witnesses to give evidence.

Suspects

- 11.31. A number of men were identified as potential suspects in this murder and were arrested and interviewed. A review of the available interview notes indicate that police believed these individuals to be involved in paramilitary activities but had no evidence with which to robustly challenge their denials or silence. All were released without charge.
- 11.32. During the course of the police investigation Person U, Person YY, Person T, Person B, Person XX, Person Q and Person EE were all arrested.

Suspect vehicle

- 11.33. The vehicle used in the attack was identified as a blue Vauxhall Cavalier which had been stolen, earlier that day, in Lisburn. It was recovered in Dunmurry at 3.20pm.
- 11.34. An anonymous caller informed police that the men who fled the Vauxhall Cavalier in Dunmurry got into a gold coloured Sierra car. It is known that one of the suspects owned a gold Vauxhall Sierra. There is no indication from the records that police seized or examined this car.

Identification Parades

- 11.35. There were no identification parades conducted in this investigation.

Forensics

- 11.36. This investigation did not uncover a formal documented forensic strategy. However, it is clear that police had identified a number of scenes they considered to be evidentially important which were examined by scenes of crime officers.

Crime Scene at Devenish Arms Inn

- 11.37. Examination of the principal crime scene was undertaken by a SOCO which included photographing the interior of the premises and mapping. The significant items recovered consisted of 9 spent bullet cases and 22 bullet fragments/ bullet heads. There are no records on police or NIFSL files of fingerprints having been taken from the snooker hall.

Clothing from the Victims

- 11.38. Clothing from those injured was submitted for forensic examination. The findings provided evidence of bullet holes and blood staining. A sampling of bloodstains was also taken from the victim's clothing for grouping, and subsequent comparison against any items attributable to potential suspects as the case developed. This was indicative of investigative foresight.

Vauxhall Cavalier Motor Vehicle – FXI 9407 (Getaway Vehicle)

- 11.39. It was established that the gunmen had fled in a blue coloured Vauxhall Cavalier and this was immediately identified as a major line of enquiry. A blue Vauxhall Cavalier FXI 9407 was found abandoned shortly afterwards in Locksley Place, Finaghy with the engine still running. The car had been stolen earlier that day in Lisburn.

- 11.40. The vehicle was examined for fingerprints but did not yield any fingerprint impressions of evidential value. It was examined by a SOCO who took a series of control samples from the upholstery and a number of tape lifts from the interior. These samples were later examined and compared with items of clothing attributable to the suspects for the cross transfer of fibres and hairs. Nothing was identified that would provide any evidential link between the suspects and the getaway car.
- 11.41. My investigators could not find any evidence that the getaway car was tested for the presence of GDR.

Suspects and Forensic Findings

- 11.42. During the course of the police investigation, Person U, Person YY, Person T, Person B, Person XX, Person Q and Person EE were all arrested.
- 11.43. Hair combings were taken, and along with various items of clothing recovered from house searches, submitted to the NIFSL, where comparative examinations were made with items submitted from the Vauxhall Cavalier FXI 9407. Additionally, clothing was examined for the presence of Gunshot Discharge Residue. These comparisons proved negative.
- 11.44. On 14 January 1992, clothing and hair combings attributed to Person U were submitted to NIFSL and examined. Blood-staining was identified on a green wax jacket, which was later grouped and identified as having originated from two separate sources. Neither grouping matched with any of the reference samples taken from the victims.
- 11.45. Further, a particle conclusively identified as Gunshot Discharge Residue was located on the surface of this same jacket. The examining scientist

concluded that, due to the detection of a number of 'characteristic particles being present on the control sample, and the possibility of contamination, the finding of the GDR particle on the jacket had to be regarded scientifically as of 'No Significance'.

- 11.46. There were no direct forensic links between any of the suspects and the crime scene at the Devenish Arms Inn or any conclusive forensic links between any suspect and Vauxhall Cavalier FXI 9407.

Intelligence and other Information

- 11.47. The RUC policy book referred to intelligence received suggesting Person U and Person T were involved in this incident. Information contained within the papers indicated that Person U had been driven to the Devenish Arms Inn by Person T. A number of arrest and search operations were planned for the 14 January 1992. Further information was contained within the archived police material that indicated Person U had boasted to another man that he had been one of the gunmen who carried out the shooting at the Devenish Arms Inn.
- 11.48. Information was also passed to the enquiry team that a witness had seen two men walk away from the area where the getaway vehicle was abandoned and make their way to a distinctive Sierra car, which was the same as the Sierra owned by one of the suspects. The witness declined to speak directly to the investigating officer for fear of his identity being discovered. Person B was arrested in respect of this murder and admitted owning a gold coloured Sierra. Person Q, who was also arrested and interviewed, admitted that he had use of this vehicle. It is noteworthy that the gold Sierra was not seized or examined in respect of this case, considering the potential for trace evidence transfer and GDR.
- 11.49. Police Officer 7 referred to intelligence in his application for extension of custody time under Section 14 of the Prevention of Terrorism (Temporary

Provisions) Act 1989 in respect of Person T, Person U and Person YY, dated the 15 January 1992. In his report Police Officer 7 stated that Intelligence indicated that Person T was the driver of the car used in the murder at the Devenish Arms Inn. Police Officer 7 further stated that intelligence from two separate sources indicated Person U was one of the two gunmen.

Missed Investigative Opportunities

- 11.50. There are no records that would indicate the Gold coloured Sierra, owned by Person B, was seized and forensically examined. This could have been a source of valuable forensic evidence that was seemingly overlooked by the investigation team.
- 11.51. In January 1992, police received intelligence that implicated Person FF in this murder. In February 1992, police received intelligence that Person FF was involved in the murder and Person EE was also implicated in the murder. My investigation did not find evidence that this intelligence was disseminated to the investigation team. Similarly, there is no evidence that intelligence received in 1994, implicating Person U and Person W, was disseminated to the investigation team. The non-dissemination of this intelligence potentially deprived the SIO from generating new or further lines of enquiry.

Concerns Raised by the Wallace Family

- 11.52. Mr Wallace's family have raised a number of questions regarding the police investigation, they are detailed as follows:-

The family wish to know if the men found in possession of the gun used to murder Mr Wallace were questioned about his murder.

11.53. The Browning 9mm pistol was recovered on 6 May 1992 following the arrest of Person ZZ and Person AAA. Person ZZ was subsequently sentenced to 7 years' imprisonment at Belfast Crown Court, for possession of this weapon. My investigators reviewed material relating to the interviews of these men and can confirm that they were questioned about this murder.

The family wish to know whether a fingerprint examination was carried out of the Devenish Arms Inn and if not, why not.

11.54. Having reviewed the police HOLMES account, and the copy FSNi file, my investigators could find no record of any action raised to conduct a fingerprint examination of the snooker hall area at the Devenish Arms Inn. Neither is there any indication of messages or statements relating to the recovery of tape lifts, or latent fingerprint impressions, being introduced into the system. There is no documented policy explaining whether this was or was not considered. However, it should be noted that some witness accounts described the gunmen as wearing gloves and, if this was in fact the case, it may explain why there was no fingerprint examination at the Devenish Arms Inn.

A man named in intelligence was named as being the driver of the escape vehicle, why was he not arrested'.

11.55. A description of the driver was given by only one witness at the scene of the murder. As a result of that description, Person XX was arrested on the day after the shooting, on 23 December 1991. He was interviewed in relation to the shooting and was released without charge.

11.56. An intelligence report referred to in the HET report naming the driver was received by the investigation, but was not acted upon. The rationale given

for this is that, in the review document, it specifically states that *'...All indications are that the intelligence was incorrect, because, although named, there is no evidence to connect him with the murder. The driver was described by an eyewitness, the man named in the intelligence report had a completely different appearance'*.

'A plaster cast was made of a shoe impression, could more have been done with this evidence at the time'.

11.57. On 22 December 1991, a member of the NIFSL attended Locksley Place, Finaghy, where the blue Vauxhall Cavalier was found abandoned. It was suspected this was the getaway vehicle used in the attack. He examined, photographed and made a plaster cast of the impression. Inspection of the cast indicated it had been made by a shoe with the same pattern of tread as a 'Hi-Tec Camaro'.

11.58. The NIFSL report stated that no footwear was received of a similar type to enable a targeted comparison against the recovered footwear mark. On 16 January 1992, it was further reported that, due to the passage of time since the attack, and the limited extent and quality of the mark, it had become highly unlikely that a meaningful comparison would be possible at that stage. No items of Hi-Tec Camaro footwear were ever recovered from any of the suspects or from any searches conducted during the investigation.

On the 8th January 1992 an anonymous message was received by police to the effect that shortly after the shooting incident, two men walked from Locksley Place and got into a Ford Sierra motor vehicle. The message included part of the registration number and it was indicated in HET report that suspects A & B had access to a similar vehicle what was done to forensically examine that vehicle or link the suspects to it?

11.59. Police enquiries identified that a gold Ford Sierra was owned by Person B and used by Person Q. Although both Person B and Person Q subsequently made admissions in relation to the ownership and use of the vehicle, my investigation can find no record of the vehicle being seized or subjected to forensic examination. I consider this to be a significant omission in the investigation, as this vehicle may have provided valuable forensic evidence

On 14 January 1992 police arrested a suspect referred to as D in the HET report, his brother was arrested as well, was this person interviewed regarding the murder of Mr Wallace.

11.60. The suspect in question was arrested on 23 December 1991 in relation to unrelated matters. It was confirmed that he was questioned regarding Mr Wallace's murder during his time in detention, but was subsequently released without charge. On 14 January 1992, he was again arrested in connection with the murder. On this occasion, he was interviewed 51 times over a seven day period.

11.61. On 14 January 1992, another suspect was also arrested in relation to unrelated matters. It is unclear from the records obtained by my investigators, if he was interviewed specifically about this murder. Both were subsequently released without charge.

The family are concerned that it was normal practice for a police/ army vehicle check point to be in place on Finaghy Road at Diamond Gardens but on the day of Aidan's murder it was missing.

- 11.62. It has been established from the military that there was a frequent VCP in the vicinity of Diamond Gardens. However, this was formed at the direction of the RUC. It appears from the military notes that are in existence for the 22 December 1991, that the VCP was not in place at the time of the attack. My investigation has been unable to establish why the VCP had not been set up on 22 December 1991.

12.0

The Attack at Sean Graham

Bookmakers

Background

12.1. On 5 February 1992, at approximately 2:30pm, two masked gunmen entered Sean Graham Bookmakers on the Ormeau Road. There were approximately 20 customers and members of staff in the premises at the time. From witness statements, it would appear that the gunmen walked across Ormeau Road from the direction of University Avenue. A number of shots were discharged from two weapons within the premises, namely a VZ58 rifle and a 9mm Browning pistol. The two gunmen then left the premises and made off across the Ormeau Road and got into a blue Ford Escort Vehicle Registration Mark (VRM) RIJ 9090, which was waiting in University Avenue, containing a third person as driver. The vehicle was observed by witnesses driving off along University Avenue. This car was later recovered in Bladon Drive, in the Stranmillis area. Many of the customers in the premises sustained injuries, five of whom died: Coleman Doherty, Jack Duffin, James Kennedy (15yrs of age); Peter Magee and William McManus.

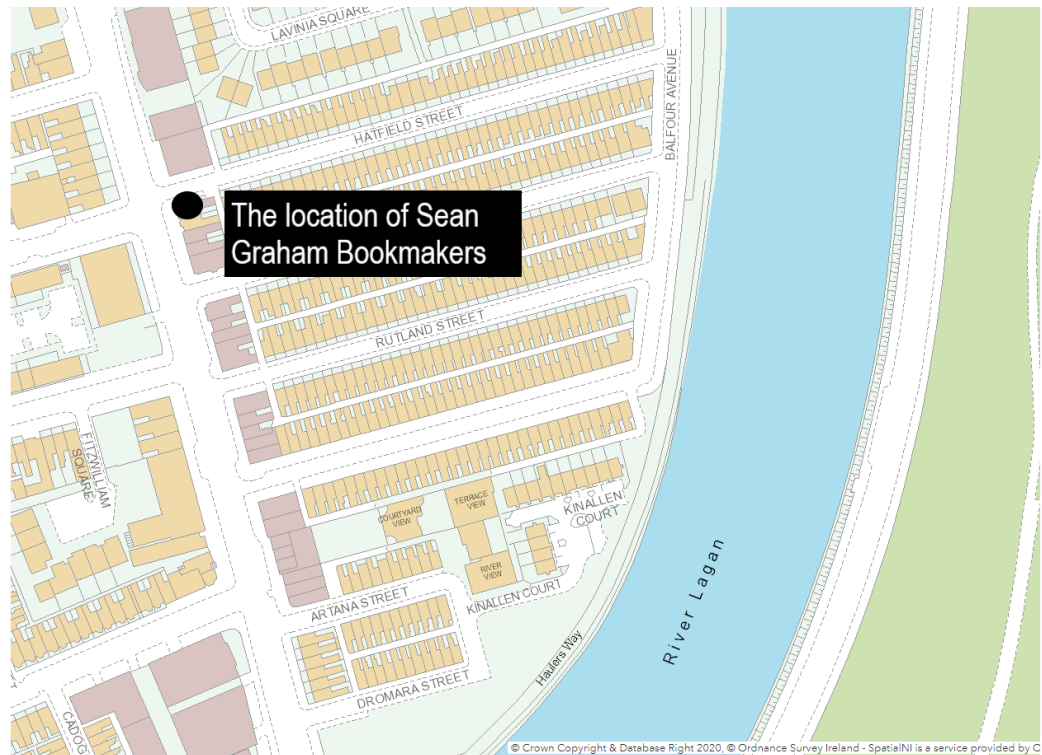
12.2. At 5:30pm on 5 February 1992 the following message was received by the BBC from an anonymous caller using a recognised codeword:

"This afternoon UFF volunteers carried out an operation on members of the most active unit of PIRA which is based in the Lower Ormeau / Markets area. This area has become a cesspit of Republicanism and as such the UFF targeted Sean Grahams.

The UFF are confident that at least two well-known players have been executed. Remember Teebane."

Map of the area

12.3.



The Initial Police Response

- 12.4. Emergency Services, including police and ambulance, were quickly at the scene, arriving within five minutes. The injured were tended to and taken to hospital.
- 12.5. Police closed the Ormeau Road between Donegal Pass and Ormeau Bridge and set up diversions. The UDR assisted police and conducted a search of a nearby towpath.

- 12.6. In keeping with crime scene management procedures, a serious crime Log was maintained by the police from 2:34pm until the crime scene was closed at 7:40pm. The log indicated 34 individuals, including CID officers, senior police managers, medical staff, two priests, staff from the forensics and mapping services attended the crime scene. It showed that two army corporals also attended at 3:25pm and left at 4:30pm. The corporals were from the Weapons Intelligence Section. The SIO was Police Officer 9, now deceased, assisted by his DSIO, Police Officer 10.
- 12.7. The scene of the incident was photographed, videoed, mapped and forensically examined by the relevant agencies. Exhibits were recovered by the SOCO. Witnesses were identified and statements were recorded. It was quickly established from witnesses that the vehicle used by the gunmen was the Blue Ford Escort RIJ 9090.
- 12.8. Enquires were quickly commenced to identify the owner of the getaway vehicle. At 2:55pm, the police identified the details of the last registered owner and spoke with him at 3:15pm. He confirmed that he had recently sold the car at Carryduff Auctions. Police then promptly spoke to staff at Carryduff Auctions at 3:28pm. The police had commenced searches for the vehicle in the vicinity of the Village, Taughmonagh, and Belvoir, with negative results.

House to House Enquiries

- 12.9. My investigators reviewed the house to house enquiries that were conducted by police following the incident. Enquiries were conducted in more than 20 streets in the vicinity of the shooting, along with the route taken by the gunmen leaving the scene, and in the area where the getaway car was abandoned. Letters were posted to those addresses where there was no reply. The investigation conference notes indicated that the SIO reviewed and expanded his house to house enquires as he pieced together

a sequence of events. The majority of the house to house enquiries proved negative.

Reconstruction

- 12.10. On 12 February 1992, between 2.00pm – 3.00pm, exactly one week after the murders, a reconstruction took place which involved the use of both the getaway cars at various locations throughout South Belfast, for the purpose of identifying further witnesses. Persons were to be interviewed and statements recorded where necessary. The reconstruction included the scene of the shooting, Bladon Drive where the getaway car was abandoned, and Dudley Street/Stranmillis Embankment again with negative results. This location was chosen as it was part of the route travelled by the suspects in the first getaway car RIJ 9090 en route to Bladon Drive, where a second getaway car YIA 6097 was waiting.

The RUC communication with the Bereaved Family and Survivors

- 12.11. There was no documented family liaison strategy in this investigation. A police Family Liaison Officer (FLO) was not a specific police role at the time of these murders. This role was not introduced into the RUC until in or around 2000. Therefore no Family Liaison Logs exist in relation to this investigation. It was noted in conference notes that on 18 February 1992 between 7:30pm and 9:00pm a superintendent called on the families of all 5 deceased to advise them of the charging of Person AA. There was a further note that, on 20 February 1992, a sergeant called on all families to inform them of Person A appearing at court on 21 February 1992.

CCTV/Passive Data

- 12.12. The police material contained a message recorded on 6 February, which indicated that 'last Friday' staff at the Ormeau Road Filling Station had seen two men in an Escort bearing the numbers 9090 or 6060 in the VRM. Police obtained the CCTV footage and prepared photographic stills. This action records the vehicle in question was in fact a Ford Orion EX16040. The occupants of the car were spoken to by police and statements recorded and the men eliminated from the enquiry.
- 12.13. On 13 February, information was received from an anonymous caller who said the blue Escort had been in a local garage 90 minutes before the attack and there may be CCTV. An action was raised and notes the member of staff had already been interviewed and a statement recorded. There was no video system in the garage.
- 12.14. Police raised an action to ascertain if there was video outside the Empire Club because Person AA's alibi indicated he was this the Empire. This is action states that there was only a monitor at the Empire Club and no footage is recorded.
- 12.15. Police also raised an action to establish if CCTV was in operation at a local garage; if the car used in the attack was recorded as being at the premises near midnight on the night of 5 February 1992; and how many persons were in the vehicle. The result of this action is noted on 16 February recorded '*No video or monitor*".
- 12.16. My investigation also established that police conducted enquiries at H&J Martins on the Ormeau Road to ascertain if there was CCTV footage, however none was identified. My investigators also spoke with staff from

Carryduff Auctions and determined that there was no CCTV at the premises in 1992.

The Weapons used in the Attack

- 12.17. A WERC report dated 6 February 1992, indicated it was quickly ascertained that two weapons were used in this attack, namely a 9mm Browning pistol and a VZ58 rifle.
- 12.18. At the request of Police Officer 9, spent cartridges from the scene were compared to other cases. This established that the Browning Pistol was also used in the murder of Mr Wallace at the Devenish Arms Inn on 22 December 1991.
- 12.19. On 5 February 1992, WERC wrongly indicated to the SIO that the VZ58 used at Sean Grahams was also used in the murders of Mr Seamus Morris and Mr Peter Dolan in 1988.
- 12.20. The origin, use and disposal of these weapons are the subject of detailed commentary in Chapter 6 this public statement.

The RUC approach to witnesses

- 12.21. There were 395 witness statements recorded in response to this incident. A significant volume of those are police statements, statements from the military, ambulance staff and witnesses. Witnesses comprised of those patrons inside the premises, including the injured, who provided accounts of the incident, passing pedestrians, road users and people who lived nearby. The SIO also directed that enquiries be made with two local pubs in the vicinity for the purposes of tracing and interviewing patrons. It is not

my intention to rehearse all of the witness accounts in this report, but to refer to those which are significant.

- 12.22. Eye witnesses provided broadly similar accounts, in that the two gunmen approached from the far side of the Ormeau Road, entered the bookmakers and then fled the scene in a blue vehicle which was waiting in University Avenue, with a driver inside. Witnesses were able to give descriptions of the gunmen. Although they wore balaclavas, some witnesses saw them removing the balaclavas as they got into the getaway vehicle.
- 12.23. A nearby resident saw the two gunmen leave the bookmakers. He saw both men remove their balaclavas on leaving the bookmakers and they ran towards a dark blue Ford Escort, RIJ 9090, parked in University Avenue. This vehicle had a driver in it and, once the gunmen got in, the vehicle drove off. The resident described the gunmen as being of average height and build and in their late 20's or early 30's. He described the gunman carrying a long-barrelled weapon, as having mousey fair hair, which was short and neat.
- 12.24. Another witness saw the gunmen approach the bookmakers and leave, after the shooting, in a navy blue vehicle, possibly an escort, making off at speed from University Avenue. He described the men he saw as in their 30's, one as tall and 'lanky' and one as fat, with a moustache and dark hair. A number of other witnesses refer to one gunman having a moustache.
- 12.25. Witness 7 was working in the upstairs room of the Hatfield Bar when he heard gunfire. He looked out of the window and saw two hooded people run from the bookmakers towards a vehicle parked in University Avenue, close to the junction with the Ormeau Road. Witness 7 described the vehicle as being a maroon-coloured Ford Escort and the letters of the registration were RIJ. The two men got into the vehicle and it drove off. Witness 7 later

positively identified Person AA as being one of the gunmen when he attended an Identification Parade.

- 12.26. Witness 8 was walking on University Avenue towards the Ormeau Road and stated that he saw a vehicle approaching him, swerving from side to side. Witness 8 described two occupants removing balaclavas and described how the rear passenger pointed a gun at him shouting "*Don't open your mouth or you'll get the same as the ones in the bookies*". Witness 8 then stated he noticed this man had the words Red Hand Commando tattooed around his right wrist. He described the vehicle as being red and the driver as being masked.
- 12.27. This account is inconsistent with a number of others, as witnesses are generally agreed that the gunmen removed the balaclavas before they got into the vehicle and the getaway vehicle was identified as being blue and not red, although Witness 7 refers to the car being maroon.
- 12.28. The witness accounts broadly agree that one male was slightly taller and slimmer than the second. They were both wearing balaclavas and dressed in overalls and jackets. A common feature among several of the witness accounts described one of the gunmen removing his balaclava while running across the Ormeau Road, after the shooting. He appeared to have either blond or reddish, dyed hair or highlights and a moustache.
- 12.29. Witness 9 noticed a vehicle parked in Bladon Drive during the day. Later in the day, at approximately 2:40pm Witness 9 saw a man walk towards the car. Witness 9 asked the man if he owned the car and he confirmed that he did and drove it away. Only later in the evening did Witness 9 realise the significance of this car and reported it to the police at 9:20pm. When police attended Bladon Drive, they discovered that the first getaway car one had

been abandoned there. It was believed that the car seen by Witness 9 parked during the day was the second getaway car.

Suspects

- 12.30. There was no documented, suspect strategy within the archived material. The absence of records relating to investigative policy and decision making, coupled with Police Officer 9's decision not to co-operate with my investigation, has made it difficult to establish the rationale behind key policing decisions and strategies. For example, it can be seen, from examination of conference notes, that numerous addresses were searched with negative results and that the Kimberley Bar was searched with negative results, but it is not clear why these actions were taken. Many arrests of 'lesser known' loyalists were made but, again, the rationale for these is not clear. The rationale is not contained within intelligence my investigation has viewed. Nonetheless numerous arrests and searches were conducted.
- 12.31. The SIO had lists drawn up for the enquiry office, of the suspects who could have been involved and those that could not have been involved. He also had the descriptions of the attackers, provided by the witnesses, noted against potential suspects. Information was gathered regarding tattoos and other marks that could relate to suspects. The SIO also liaised with local collators to establish if they could identify potential suspects from the descriptions that had been provided by witnesses.
- 12.32. There were seventeen people arrested and questioned about the attack at Sean Graham Bookmakers. This initially resulted in two people being charged with the murders, namely, Person AA and Person A. The murder charges were later withdrawn, although Person A was prosecuted for offences relating to possession of the murder weapon, the VZ58.

Person AA

12.33. In the early hours of 6 February 1992, Person AA was stopped by police for driving offences in what is now believed to have been the second getaway vehicle. He was taken into custody and processed for the driving offences and then released. At this point, the significance of the car he was driving was not known. On 12 February, he was arrested in connection with the murders. He was interviewed over fifty times by police, during which he admitted that he had hired the car, but denied any involvement in the murders. He subsequently stood on an identification parade and was positively identified by Witness 7 as being one of the gunmen whom he saw leaving Sean Graham Bookmakers. During interview, Person AA gave an extensive account of his movements at the time in question, which was checked by police and supported by another witness. He was charged with the murders on 18 February 1992 but the charges were withdrawn by the DPP on 3 November 1992, as the evidential test was not met.

Person B

12.34. Person B was identified early in the investigation as being involved in the purchase of the first getaway vehicle, the Ford Escort RIJ 9090 from Carryduff Car Auctions, with Person BBB.

12.35. On 10 February, he was arrested and interviewed over 30 times. He was questioned at length about his involvement in the murders. He consistently denied being at Carryduff Auctions on 27 January 1992 and denied any involvement in the purchase of the vehicle. All questions relating to the murders were met with the same response, that he knew nothing about them. He offered no alibi and gave no explanation as to his movements at the relevant time. Ten witnesses viewed him on identity parades, none of whom picked him out.

12.36. Person B was identified as the purchaser of the vehicle from a photo album. However, the witness subsequently withdrew his co-operation with police and refused to provide a statement or give evidence. The purchase of the vehicle was the only thing that linked Person B to the murders. On 15 February 1992, he was released, pending DPP advice. On 24 November 1992, the case against him was dropped.

Person A

12.37. On 18 February 1992, Person A was arrested, following a search of his home address, which resulted in a find of weapons, including the VZ58 used in this attack. In 1994, he was charged and convicted of firearm offences and received a sentence of 20 years. He was released on licence in 1998.

Person BB

12.38. Intelligence indicated Person BB was identified as a possible suspect, as a result of this his house was searched, but with negative results. A message dated 6 February 1992 from SB named Person BB, Person B and Person W as being involved in the murder. Suggestion of Person BB's involvement continued in a further message, dated 10 February which suggested that Person BB and Person W have been in hiding since the murder". There was further information from SB recorded in a conference note, dated 11 February, "Person B, Person BB and Person W were hiding in West Belfast. This information stated that they were 'to sign on today and they will be happy to be arrested after that'. This conference was timed at 9:00am. There was no indication, within the archived material, that the investigation team attempted to apprehend Person BB and Person W at the job centre where they would have 'signed on'. In the absence of documented policy records, and in the absence of assistance from Police Officer 9, I cannot

conclude the reasons for this. My investigators tried, without success, to establish whether these suspects did 'sign on' on 11 February 1992.

- 12.39. It is apparent that there was a swift decision taken to arrest Person BB and this was recorded within an entry in the RUC Gazette. This stipulated that he was to be arrested under Section 14 of the Prevention Of Terrorism Act 1989 (1989 Act), in relation to the murders at Sean Grahams. A message contained in the police material, dated 15 February 1992 at 11.15am, recorded an unsuccessful attempt to arrest Person BB and his associate, Person II.
- 12.40. On 17 February 1992, police stopped a Ford Sierra, which was driven by Person B. He was accompanied by Person W and Person BB. Person BB and Person W were arrested under Section 14 of POT legislation. By this date, Person B had already been arrested and released.
- 12.41. Between 17 February 1992 and 19 February 1992, Person BB was interviewed on 43 separate occasions. It was apparent that police lacked any evidence with which to robustly challenge him. They could not connect him to the murders in any tangible way, such as linking him to the scene, the cars or the weapons.
- 12.42. Person BB accounted for his whereabouts on 5 February in the following terms. On 5 February, made his way to the home of a relative who lived in Belfast, arriving there at 1:30pm. Around 1:50pm, she asked him to go to a nearby off license, to purchase alcohol. It was not recorded within the interviews when he arrived back from the off license, but does mention that, on his return, he had a few drinks with his relative and they both heard of the shooting at Sean Grahams on the 3:00pm news. He left there around 3:15pm.

- 12.43. His relative was interviewed by police and confirmed Person BB's account of being at her home on 5 February 1992, leaving to go to the off license at 2:00pm and returning about 10-15 minutes later. She stated that they heard about the news of the shooting on the television news between 3-3:30pm.
- 12.44. There was no record of police having checked this alibi account with staff at the off license.
- 12.45. On 21 February 1992, Person BB attended in an identification parade viewed by seven witnesses, including Witness 7 and Witness 9. No positive identifications were made.
- 12.46. My investigators spoke to four retired officers who had conducted the interviews with Person BB. With the passage of time, none of them could recall these interviews specifically. However, they did say that, generally, interviewing officers would attend a case conference and actions would be raised by the SIO for alibis to be checked. One of the officers stated that, generally, the interview teams would be kept intact and they would not be involved in checking alibi accounts.
- 12.47. My investigators also traced and interviewed four members of staff who worked at the Russell Wine Cellars off license in 1992. Three of the witnesses stated that police did not conduct enquiries with them following the murders. One witness could not recall whether police had or had not spoken with her. It should also be noted that two of these witnesses could fit the description Person BB provided of the woman who sold alcohol to him on 5 February 1992. It was also confirmed that there was no CCTV on the premises in 1992.
- 12.48. Retired Police Officer 10, who was the DSIO, spoke with my investigators. Although he had limited specific recollection about the investigation, due to

the passage of time, he stated that he had signed the interview notes which records the alibi account. He stated that he absolutely would have directed officers to make the necessary enquiries and perhaps these enquiries had not been properly reflected in the investigation papers.

Person W

- 12.49. On 17 February 1992, Person W was arrested. He was interviewed about the murders and denied involvement in them. A single fingerprint belonging to him was found in the second getaway vehicle. However, this was insufficient to link him to the murders.

Person ZZ and Person AAA

- 12.50. On the 6 May 1992, both Person ZZ and Person AAA were stopped by police and the vehicle they were travelling in was searched. Police recovered from the vehicle a 9mm Browning which was used in this attack. Persons ZZ and Person AAA were then arrested. Questions were put to them during interview about the murders at Sean Grahams and they denied any involvement. Both were charged with firearms offences. Person ZZ was convicted in court and sentenced to seven years in prison. Person AAA was acquitted in court in respect of this matter but was sentenced to nine years in prison for unrelated matters.
- 12.51. A number of other individuals linked to the UDA/UFF were arrested. However, no other persons were charged with the murders due to the lack of evidence of their involvement. All those arrested denied any involvement in the murders. A number of suspects stood in identification parades which proved negative.

Persons of Interest to Police

- 12.52. Person U did not feature as a suspect in this police investigation. This is surprising in light of sightings of him in the vicinity of the murders at the relevant time and information which became known during the enquiry.
- 12.53. Person U had Loyalist Paramilitary affiliations, and his associates included numerous members of South Belfast UDA/UFF. He also socialised in the Kimberley Bar and Taughmonagh Social Club.
- 12.54. On 4 February 1992, Person B was sighted on Finaghy Road North in a Ford Sierra with passengers, Person U and Person W. The car was subsequently searched with negative results. It is not known why the vehicle was stopped on that particular day. It is known that Person N was seen talking to unknown males in this vehicle on 4 February 1992.
- 12.55. On 13 February 1992, an anonymous caller into the incident room stated that, at 2:45pm 5 February 1992, 17 minutes after the shootings, Person U attended the home of a senior UDA/UFF member.
- 12.56. Police enquiries were made with taxi companies and it was established that, at 2.38pm, 10 minutes after the shootings, a taxi was called, in the name of Person U, to be picked up at the Elms Bar, University Road. This was approximately 800m from the scene of the attack. My investigators established that the route from Sean Graham Bookmakers to the Elms Bar could be walked comfortably in 7 minutes.
- 12.57. The taxi driver recalled that the fare asked whether anything had happened on the Ormeau Road and, when reports came through on the taxi radio, he expressed interest in the news bulletin.

- 12.58. At the time of the murders, Person U was described as having dark brown curly hair. A number of witnesses described one of the gunmen as having dark curly hair.
- 12.59. On 12 February 1992, police received further information from an individual that indicated Person U had told a third party, on 4 February 1992, that he should watch the news at 2:00pm the following day, as there was going to be a shooting in a shop at the bottom of the Ormeau Road. The gunmen's car was to go to Malone Road where a second car would be waiting to take them to the club at Taughmonagh. It is unfortunate this information was not given to police until 12 February 1992. Police conducted the necessary enquiries to verify that Person U spoke to the second party in question on 4 February 1992. However, as the incident had already occurred, and had received widespread media coverage, this undermined the credibility of the information.
- 12.60. Person U was neither arrested nor interviewed in relation to this offence. He did not feature in any photo albums shown to potential witnesses and was never raised as a 'person of interest' in the investigation. In isolation, each piece of information or intelligence would appear insignificant. However, taking into account all the circumstances, it is my view, these facts were sufficient to lead to an arrest and interview of Person U.

Suspect Vehicles

- 12.61. There are two vehicles associated with this attack and are referred to as getaway vehicle 1 which was a Ford Escort RIJ9090 and getaway vehicle 2 which was a Ford Escort YIA6097.

Ford Escort RIJ 9090

- 12.62. On the 27 January 1992, the above vehicle was entered into an auction at Carryduff Auctions. The owner of the car withdrew it from the auction when

it failed to meet its reserve price. However, Person BBB approached the owners' companion, outside of the auction, and agreed a price of £370 and he subsequently purchased the car.

- 12.63. It was the Ford Escort RIJ 9090 that the gunmen used to travel to and from the Ormeau Road. Upon leaving the scene, the car was driven to Bladon Drive.

Ford Escort YIA 6097

- 12.64. On the 5 February 1992, Person AA hired this vehicle. The car was hired from 10:00am on 5 February – 10:00am on 6 February 1992. Person AA was arrested and charged with the murders, however the charges would later be withdrawn.

Identification Parades/Photographic identification procedures

- 12.65. A number of identification parades took place during the police investigation. They are set out below
- 12.66. On 14 February 1992, Person B stood in an identification parade which was viewed by ten witnesses. No witness made a positive identification. On 17 February 1992, Person AA stood in an identification parade which was viewed by nine witnesses. Witness 7, an eye witness who had seen the gunmen leave the bookmakers, made a positive identification.
- 12.67. On 21 February 1992, Person BB stood in an identification parade which was viewed by seven witnesses. No witness made a positive identification. On 24 February 1992, Person II stood in an identification parade which was viewed by six witnesses. No witness made a positive identification. On 22

February 1992, Person CCC stood in an identification parade which was viewed by seven witnesses. No witness made a positive identification.

12.68. In addition to identification parades, Police Officer 9 instructed that a number of witnesses should be shown photograph albums in an effort to identify any suspects. Police conducted a photographic identification process with ten witnesses. The witnesses viewed a number of albums of photographs and were asked to identify any person they believed to be the person or persons whom they had described in their statement as being involved in the shooting at Sean Graham Bookmakers on 5 February 1992.

12.69. On 5 February 1992, two witnesses from Carryduff Auctions were shown a photograph album from which they positively identified Person B as being involved in the purchase of the car. Both witnesses refused to attend identification parades and refused to give evidence in court.

12.70. Two witnesses were able to produce photofits.

Forensics

12.71. The forensics in this case can be categorised as follows:-

- I. The scene at Sean Graham Bookmakers;
- II. The weapons;
- III. Clothing and blood samples from the deceased and injured;
- IV. Ford Escort RIJ 9090 (getaway car 1);
- V. Ford Escort YIA 6097 (getaway car 2);
- VI. Items seized from suspects.

- 12.72. There were regular police case conferences and the conference notes referred to a forensic strategy, detailing the necessary forensic actions. The NIFSL file also refers to meetings between the SIO and the scientific staff.

The Scene at Sean Graham Bookmakers

- 12.73. A detailed forensic examination of the scene was undertaken by a NIFSL Principal Scientific Officer. The scene was extensively searched and all items recovered were mapped as to the position of their recovery, and photographed where they were found. The significant items were:

- I. 18 x 9mm spent cartridge cases;
- II. 7 x 9mm bullets;
- III. 27 x 7.62 x 39 spent cartridge cases;
- IV. 1 x 7.62 spent bullets

The above items were submitted to NIFSL on 5 February 1992.

- 12.74. All of the above items were examined and the calibre of the weapons used was identified as a 7.62mm rifle and a 9mm self-loading pistol. It was further determined that there were 27 shots fired from the rifle and 19 shots from the pistol; a total of 46 shots.

Clothing and blood samples from the deceased and injured.

- 12.75. Clothing of those deceased and injured was subject to forensic examination. This provided evidence of bullet holes and cartridge fragmentation. In addition, it is known that blood samples were taken from each of the five deceased and submitted for grouping and DNA. There is no indication within the material reviewed that suggests blood samples were taken from the injured.

Ford Escort – RIJ 9090 (Getaway vehicle 1)

- 12.76. It was established from witnesses at the scene that the offenders had fled in a Ford Escort VRM RIJ 9090. On the evening of 5 February 1992, this car was recovered by police at Bladon Drive, Belfast and submitted to NIFSL.
- 12.77. Swab samples were taken from the interior of the vehicle to ascertain the presence of gunshot discharge residue (GDR). The resulting examination reported that nothing of significance was detected.
- 12.78. This car was also subject of a fingerprint examination. A single fingerprint mark was recovered from the panel of the driver's door. This fingerprint was fully developed and examined. However, it was deemed unidentifiable due to insufficient ridge detail.
- 12.79. Fibre samples were taken from the vehicle for comparison with the clothing seized from the suspects and their homes. This revealed some potential cross fibre transfer in that a single fibre from the jeans of Person AA could have originated from this vehicle. However, it should also be noted that the forensic scientist classified these findings as of 'no use'. The fibres from the vehicle were not exclusive to that vehicle.
- 12.80. On 27 January 1992, this car had been purchased by Person BBB from Carryduff Auctions. Documents associated with this sale were also examined for potential forensic evidence. The bidders card (sales slip) completed in the name of Person BBB was compared with handwriting samples taken from Person BBB on 11 February 1992. The examining scientist stated that "*although similarities between Person BBB's samples and the sales slip indicated he was the writer a definite opinion cannot be*

given using the material available for comparison". Nonetheless it is noted that Person BBB admitted to preparing the bidders card.

Ford Escort – YIA 6097 (Getaway vehicle 2)

- 12.81. This vehicle had been seen parked in Bladon Drive and subsequent enquiries established that this was the second getaway car. On 6 February 1992, at approximately 1.00am, this vehicle was stopped by police and the driver, Person AA, was arrested for 'drunk in charge'. His passenger, Person LL, was allowed to leave. The vehicle was left where it had been stopped and, later that morning, the hire company removed it. Later that same day, the significance of this vehicle became apparent and police made arrangements to recover it from the hire company to have it forensically tested.
- 12.82. On 7 February 1992, two days after the attack, the vehicle was received at NIFSL. Fibre samples were taken from the interior of the vehicle for comparison with the clothing seized from the suspects and their homes. This revealed some potential cross fibre transfer in that three fibres later found on a shirt attributed to Person B could have originated from the travel rug on the rear seat. A Forensic Scientist classified these findings as of 'no use' evidentially.
- 12.83. A full fingerprint examination of the vehicle took place and a large number of items associated with the vehicle, including debris such as sweet wrappers and an Automobile Association book were submitted to NIFSL. All of these items were subjected to forensic and fingerprint examination and resulted in 19 fingerprint impressions being found. Chemical treatment of the contents of the car found six further fingerprint impressions on a business card and a single finger mark on a second business card.

- 12.84. The recovered fingerprint impressions were compared with those of the suspects and the fingerprints of Person AA and Person LL were identified amongst the latest imprints on the vehicle itself. As both had been in the vehicle when Person AA was arrested, this fingerprint evidence is not significant. A single fingerprint belonging to Person W was also identified from the fingerprint impressions found on the vehicle. This evidence was insufficient to link these men to the murders.
- 12.85. There is no indication that this vehicle was tested for GDR, as happened in the case of getaway car 1.

Items seized from suspects

- 12.86. Within the original police material there are a number of documented suspects. However, there is nothing to account for how or why certain persons were designated suspects.

Person AA

- 12.87. On 12 February 1992, clothing and footwear attributed to Person AA was received at the NIFSL and examined for the presence of GDR with negative results. A single fibre, found on his jeans, could have originated from the seat of 'getaway car 1' (RIJ9090) but was described as 'no use' evidentially. Person AA's fingerprints were found in 'getaway car 2' (YIA6097). However, he had hired the vehicle and was arrested while driving it. Therefore, any fingerprints attributed to him did not provide evidence of culpability.

Person B

12.88. On 11 February 1992, clothing and footwear attributed to Person B, along with hair combings were received at NIFSL and examined for presence of GDR with negative results. Three fibres found on a shirt attributed to Person B could have come from the travel rug on the rear seat of 'getaway car 2' (YIA6097) but were described as evidentially of 'no use'. There is no record of any fingerprints belonging to Person B being identified.

Person LL

12.89. Clothing attributed to Person LL was examined for the presence of GDR with negative results. Fingerprints belonging to Person LL were also found in 'getaway car 2'.

12.90. A blue leather jacket was recovered during a search at his home. The jacket revealed three blood stains which were grouped as follows:

- I. Blood stain on jacket lining – Group A;
- II. Blood stain from pocket – Group O;
- III. Further stain on lining of pocket – Group A;

Blood samples from four of the deceased were Group O, one of the deceased was Group B.

12.91. The blood stain from the pocket of the jacket was the subject of DNA analysis during the HET review and a full profile was obtained. This profile was subsequently compared with that of the four deceased who were Blood Type O, but with negative results. The HET report stated that no further DNA comparisons were considered necessary, as part of the further work they had commissioned, as it was "clear that the coat concerned was not worn by any of the attackers". It is not known how many of the injured were Blood

Type O but, if it was possible that blood from the deceased transferred to the gunman, then it is equally possible that blood of the injured could have transferred to the gunman. It appears that this was not considered and is a weakness in the forensic strategy.

Person BBB

- 12.92. Person BBB had an alibi for the time of the murder. Therefore, the only forensic analysis conducted in relation to him was the handwriting comparison referred to earlier.

Person BB

- 12.93. Clothing seized from a search of his home address was examined for the presence of GDR, with negative results.

Person W

- 12.94. A single fingerprint belonging to him was found in 'getaway car 2'. This was considered by police as insufficient to link him to the murders.
- 12.95. Over 220 items were submitted for forensic examination during the investigation. However, in summary, there was no forensic evidence that could link a suspect to the murders.

Intelligence and other Information

- 12.96. The intelligence that was known to SB and whether or not it was disseminated to the murder investigation team, is subject of detailed commentary earlier in this public statement. The paperwork, examined by

my investigators, clearly shows a flow of information from SB into the enquiry team.

12.97. The investigation team received other information during the course of the investigation. Much of this information is contained in over 500 messages. It is not my intention to rehearse all of this information in this report. My investigators have reviewed the information received by the murder investigation team in this manner. Based on the information contained within the police investigation papers, I am satisfied that the SIO pursued reasonable lines of enquiry arising from information he received at the time.

Missed Investigative Opportunities

12.98. The delay in identifying the second getaway car and, therefore, the delay in securing this vehicle for forensic examination, may well have impacted upon the forensic value of that vehicle. There was a slow approach to circulating the information provided by Witness 9 which, in turn, meant that the vehicle was not recovered until 6 February 1992.

12.99. The failure to check the blood found on one suspect's coat against the blood groups/DNA of the injured, is a flaw in the application of the forensic strategy. Crucially, this may have provided a link between the suspect and the scene.

12.100. On 25 March 1992, police were in possession of intelligence that Person Z was responsible for removing the firearms from Bladon Drive. There was an assumption that Person Z had already been arrested and released, which he had not been. Witness 9, who spoke to the driver of the second getaway car, therefore, did not view Person Z in an identification parade.

- 12.101. The omissions identified by my investigation on the part of police that relate Person U cause me concern. It is my view that there was sufficient evidence to justify the arrest of Person U and yet this was not done.
- 12.102. I am also concerned that police did not seek to verify Person BB's alibi with the staff working at the off license which he purportedly attended. Had this line of enquiry failed to support the alibi account he gave, police may have been able to challenge him more robustly during his interviews.
- 12.103. Other failings include the failure to disseminate the full intelligence picture to the murder investigation team. This includes the failure to tell the murder investigation team, in a timely manner, where Persons W, BB and B were staying on the night of the murders and the days following the murders. I acknowledge this was passed on 11 February 1992. There was also a failure to pass on intelligence that implicated Person N. Other intelligence failures are the failures to notify the murder investigation team that Persons B and BB had been at a flat in Annadale immediately prior to the murder. Intelligence implicating Person AA and another man was passed to the SIO investigating the murder but a reference to them being linked to Annadale Flats was not mentioned.
- 12.104. On 23 June 1992, SB received information, indicating that Person U was one of the gunmen. This was not disseminated to the SIO. This would have been supported by other information held by the murder investigation team. However, Person U was not, arrested and/or interviewed in connection with the murders at Sean Graham Bookmakers.

- 12.105. It is my view, that the failure to disseminate this intelligence to the SIO deprived that investigation or new or further lines of enquiry. These lines of enquiry could have led to house searches, arrests, and witness enquiries.
- 12.106. The bereaved families and survivors have raised a number of allegations and issues arising from the police investigation and these are addressed in Annex A.

13.0

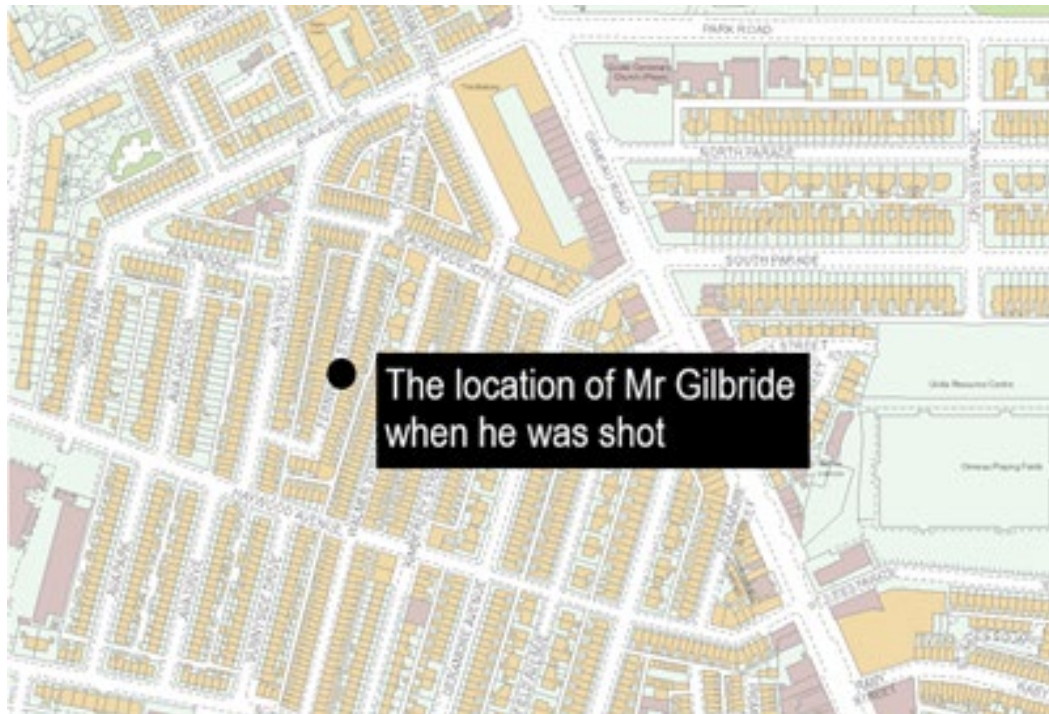
The Murder of Mr Michael Gilbride

Background

- 13.1. Michael Gilbride was 36 years old when he was murdered. He lived in Belfast with his wife and his three children. He was a joiner by trade.
- 13.2. When Mr Gilbride was working in the Belfast area, he tended to visit his parents for lunch, who resided on Fernwood Street, Belfast. On 4 November 1992, Mr Gilbride took a break from his joinery work and made his way to his parents' house for lunch.
- 13.3. At approximately 12:58pm, he parked his car outside 36 Fernwood Street and walked towards his parents' home. On this journey, he was approached by at least one unidentified man, who fired three shots at him, one of which struck him on the left side of his temple. Mr Gilbride died at the scene.
- 13.4. At 2:44pm, on the same day, an unknown male phoned the BBC and, using a recognised code word, made the following statement, *"The UFF admit the lunch time assassination of Michael Gilbride who was a member of the Republican movement involved in targeting Loyalists."*
- 13.5. To date. no one has been charged with the murder of Michael Gilbride.

Map of the area.

13.6.



The Initial Police Response

- 13.7. At the time of the shooting, two police officers were on foot patrol near to Fernwood Street. After hearing the sound of what they thought were gunshots, they made their way to Fernwood Street. On arrival, they found Mr Gilbride lying on the ground. They found no signs of life. They established a scene and commenced a Crime Scene Log. Enquiries were also commenced in order to identify Mr Gilbride. His father identified the body of his son to police at 1:05pm.
- 13.8. The scene was attended by mapping and photography and was forensically examined by a SOCO. Military personnel also attended the scene, which was common practice at the time.
- 13.9. The team was led by SIO Police Officer 9 from Musgrave Street Police Station and DSIO Police Officer 10. They were assisted in their investigation by a Detective Sergeant, seven Detective Constables, three

Police Constables and a Detective Constable from SB.

13.10. A Press Appeal was made, seeking any witnesses to the crime or any persons holding any information, to contact the Incident Room. This resulted in information being received from the public, who provided details of possible suspects and possible sightings of those involved.

13.11. It was established that both 31 and 35 Fernwood Street were vacant properties. Views from the front of these properties would have afforded a view of Mr Gilbride. The SIO requested that both houses were forensically examined, which was completed.

House to House Enquiries

13.12. The house to house enquiries encompassed a large area. This led to a number of witnesses being identified and statements were obtained by police. Police officers also attended 'The Kimberley Bar', a nearby public house and recorded names and addresses of those present at the time of the murder.

Reconstruction

13.13. On 11 November 1992, between 12.30pm and 1.30pm, exactly one week after the murder, police conducted a vehicle check point at both ends of Fernwood Street. Several residents in the area were stopped but had already been interviewed as a result of the house to house enquiries. No new evidence was obtained, nor were any additional witnesses identified.

The RUC communication with the bereaved family

13.14. There was no documented family liaison strategy in this investigation. A police Family Liaison Officer (FLO) was not a specific police role at the time of these murders. This role was not introduced into the RUC until in or

around 2000. Therefore no Family Liaison Logs exist in relation to this investigation.

- 13.15. The SIO made a note in his policy book that, following personal contact by various CID officers, including Police Officer 10, with Mr Gilbride's family, a good relationship has been established.

CCTV/Passive Data

- 13.16. The availability of CCTV/passive data to support the murder enquiry was minimal due to the scene being within a residential area.

The firearm used in the murder of Michael Gilbride on 4 November 1992

- 13.17. Examination of the ballistic evidence recovered from the scene identified the weapon as likely to be a .357 Magnum calibre revolver.
- 13.18. Police believed that the same firearm was discharged during another murder in 1990 and also the attack on Mr Wallace at the Devenish Arms Inn on 22 December 1991. Both attacks were claimed by the UFF. This weapon has never been recovered by police.

The RUC approach to witness

- 13.19. It is clear that identifying witnesses through house to house enquiries was a priority for the SIO. The first recorded case conference was at 3:10pm on the day of the murder, when the first wave of results from the house to house were discussed. Police identified Witness 11, a resident of Fernwood Street, who reported: *"After he heard shots looked out his back door & saw person with a blue jacket/hood up on black mountain bike going very fast towards Haywood Avenue from Blackwood St – no other description. No one else in entry."*

- 13.20. The last entry for this conference appears to show the SIO's hypothesis that the cyclist was the gunman and is recorded as *'Gunman/men possibly exited via derelict house to rear which may link to person on bike – No. 31 – possibly forced entry? Was last shot just fired as assailant left? Or was there a second gunman. Last shot may have been fired into house to keep their heads down'*.
- 13.21. The next case conference at 6:50pm the same day records and reaffirms the commitment to trace witnesses by continuing house to house enquiries. This strategy is also recorded in the SIO Policy log.
- 13.22. A Press Appeal was made seeking any witnesses to the crime or any persons holding any information to contact the Incident Room. This resulted in information being received from the public, who provided details of possible suspects and possible sightings of those involved.
- 13.23. Witness 10 had made herself known to police after the shooting and her evidence was discussed at the 9.00am case conference on 6 November 1992. In relation to this, the following is recorded in the notes: *'Police Officer 9 & Police Officer 10 went Blackwood St. and 36 Fernwood is 125 yards – Whole Street is 190 yards. All angles were covered and say Witness 10 could not possibly give detailed description. Only profile & clothing. Her description would not stand at Court'*. It refers to a photofit being prepared by Witness 10 and records *'MUST NOT HAVE WORD "GUNMAN" but "Man seen Blackwood St"*.
- 13.24. Police Officer 10 completed a Message Form timed at 5:00pm on 5 November 1992, which states,
- 'Accompanied by Police Officer 9 walked the entire route this lady describes in Message 16 and her written statement. We are both satisfied that she could not possibly have witnessed the detail she has described.'*

We believe she may have seen something but has unfortunately become mixed up. She may have an ulterior motive for making this report such as re location of a house etc. A photofit will be prepared of the person she seen in Blackwood but for police purposes only'.

He also entered a similar narrative in his Policy Log Decision No. 7.

- 13.25. At the 9:00am conference on 10 November 1992, in an attempt to locate further witnesses, it was agreed to have police personnel in Fernwood Street the following Wednesday between 12:30pm – 13:30pm, making enquiries of vehicle drivers, passengers and pedestrians.
- 13.26. It is clear from the above entries that police attempted to identify witnesses to the shooting. Unfortunately, other than Witness 11 and Witness 10, no others were found. As can be seen from the above entries, Witness 10's evidence was not believed by at least the two senior officers investigating the murder. As it is obviously Witness 10 referred to as not being asked to attend an identification parade, it is appropriate now to look at her evidence in detail.

Witness 10

- 13.27. A police message timed at 10:45am on 5 November 1992, shows that Witness 10 telephoned police to say that she had witnessed the gunman (not the shooting) standing near to the body, before running off along Fernwood Street towards Ava Street. Very shortly afterwards, she again saw this man get into a red Cortina car on Blackwood Street and being driven away. The original handwritten message records that she stated that the man was local, as she has seen him before, but did not know his name. She had seen him that morning standing at a bus stop on Ormeau Road wearing the same clothes.

13.28. Police immediately acted on this information as a priority line of enquiry and subsequently identified two individuals linked to the Cortina. They were local residents and were interviewed by police. Full and reasonable accounts were obtained from them, and other witnesses to whom they were connected, which clearly pointed to them not being involved in the murder. I have reviewed police actions in this regard and I am of the view that the original police investigation adequately and robustly pursued this line of enquiry. I have no reason to doubt the accuracy of the report with regard to the identified individuals being present in the area at the time. However, this does not point to their involvement or connection to the murder of Mr Gilbride.

The RUC approach to suspects

13.29. The archived police material in respect of this investigation did not contain a suspect strategy. Neither did the corresponding HOLMES account.

13.30. Police obtained statements from witnesses in the vicinity of the scene around the time of the murder but no one was able to describe or identify anyone responsible for the shooting. Due to the lack of physical evidence, the suspect strategy was largely dependent on anonymous information and intelligence received.

13.31. There was information available to the SIO that Person JJ and Person BBB were involved in the murder. However, there was no specific intelligence about their role. On 8 December 1992, Person JJ was arrested under Section 14 of Prevention Of Terrorism Act (PTA) and questioned about another murder in 1991. He was also questioned about UDA/UFF membership. On 29 June 1993, he was again arrested under the PTA and charged with possession of a firearm with intent. However, he was not arrested in relation to this murder.

- 13.32. Person BBB was not arrested in relation to this murder. Person KK was also mentioned in intelligence as being involved in the murder. However, he did not feature in the RUC archive papers. It is not known if this intelligence was ever disseminated to the investigation team SIO.
- 13.33. Information was also received by the investigation team that Person Z or Person AA and Person BBB had been seen in the vicinity around the time of the shooting. Person AA was not arrested in relation to this murder.
- 13.34. Two men were identified as being in the vicinity when the murder occurred after their Ford Cortina (as mentioned in Witness 10's account) was traced by police. Both provided statements to police explaining their reasons for being in the area at the time. This was accepted by the investigation team and it was deemed that they were not involved in the murder.

Suspect Vehicles

- 13.35. No suspect vehicle other than the Ford Cortina was identified as connected to this incident. Witness accounts refer to the gunman fleeing on foot and possibly on a bicycle.
- 13.36. Details of all vehicles in the street were recorded and background checks completed in respect of all vehicles. This did not progress the police investigation.
- 13.37. Initially checks were to be carried out with reference to bicycles reported stolen over the previous three months. However, the Detective Chief Inspector wrote off this enquiry as an "impossible task".

Identification Parades

- 13.38. There was no identification parade held as no eye witnesses to the murder were identified. Witness 11 saw a person believed to be the gunman

escaping but could not describe him. Witness 10's identification was deemed to be unreliable although a photofit was prepared, based on her description of a man she saw in Blackwood Street.

- 13.39. A policy decision recorded on 5 November 1992 stated *"Police Officer 9 and Police Officer 10 have personally walked and examined the route. Satisfied that she could not possibly have witnessed the facts she has stated and as a consequence little value placed on her report. Photo fit will be prepared of the U/K male she saw in Blackwood Street and attempts to locate"*.

Forensic

- 13.40. The police investigation identified a number of scenes that were considered to be potentially evidentially important to the murder enquiry.

Crime Scene at Fernwood Street

- 13.41. At 1.35pm, a SOCO attended the scene and two bullet heads were recovered, one from the front room of number 38 Fernwood Street and one from the rear footwell on the driver's side of Mr Gilbride's car.
- 13.42. Both numbers 31 and 35 Fernwood Street were unoccupied and, upon closer inspection, it was discovered that the back doors of both appeared to have been forced open. In light of this, they were both forensically examined. Nothing of significance was noted in number 31. However, several items were recovered from number 35. These items consisted of newspapers and notepads. These items could not be located by this investigation. It is not apparent if they were examined by police or their relevance to the investigation.

Mr Gilbride's Car

- 13.43. The SOCO recovered a bullet head from the rear footwell the driver's side of this car and obtained a control sample of glass. The vehicle was also photographed where it was located. The car was not subject of a full forensic examination, but there was no suggestion that the gunman had come into contact with the car.

Suspects and Forensic Findings

- 13.44. Although a number of persons feature within the investigation, no person was arrested for the murder of Mr Gilbride.
- 13.45. This investigation was unable to uncover evidence in the available material that would demonstrate the forensic approach pursued by police at the time in relation to any of the individuals featuring in the investigation. Neither the NIFSL papers viewed, nor the RUC material, nor a check of the nominal links on the HOLMES account, provide any indication of what, if any, clothing or other property was submitted for analysis.

Post Mortem

- 13.46. The post-mortem examination was conducted by the State Pathologist for Northern Ireland. A SOCO was also present and took possession of the blood and urine samples, in addition to a bullet jacket and lead core removed from Mr Gilbride. The items were packaged and labelled and subsequently submitted to the NIFST for examination. The conclusion of the post mortem was that death was caused by a single bullet wound to the head.
- 13.47. There was no material available in the case papers, to confirm whether or not the clothing of Mr Gilbride was seized and recovered by police during the post-mortem for subsequent forensic examination.

13.48. An examination of the victims clothing of violent crime was routinely done in cases of this nature. This was to establish the following:

- I. bullet trajectory;
- II. make and calibre of weapon used;
- III. the proximity of the offender to the victim when the firearm was discharged;
- IV. any cross transfer of trace evidence

Therefore, it is surprising if this examination was not undertaken. However it transpired that, without any significant forensic findings in respect of suspects, it is considered unlikely this would have adversely impacted on the overall forensic strategy.

Intelligence and other Information

13.49. Information was received from members of the public throughout the investigation; mostly anonymously. The information provided related to possible suspects and movements of those involved.

13.50. On 4 November 1992, the first anonymous message received on the police confidential line, suggesting that the men involved in the murder had run into the Kimberley Bar after the shooting. Police also attended and recorded details of those present after the shooting.

13.51. In early November 1992, a message to the confidential telephone number from an anonymous caller stated, at approximately 1:00pm in the area of the murder they saw a man who would be known to police accompanied by another smaller man who were acting suspiciously. The caller believed this man was either involved in the murder or witnessed it. The caller also gave a description of the man stating he was tall and heavily built. No action was generated by the investigation team but the case papers record the identity

of the man who it was likely to be, as he was known to stand at the corner every day.

- 13.52. Another message on 4 November 1992 stated that Person BBB ran into the Kimberley Bar with either Person A or Person ZZ, just after the shooting and that they were wearing gloves. This was the second piece of information making reference to the Kimberley Bar.
- 13.53. On 5 November 1992, a message received by police stated that Person CC had been in the street where Mr Gilbride was murdered on a number of occasions. The message also stated that Person BBB was drinking in a house in the same street.
- 13.54. An action was generated to research Person BBB and to make discrete enquiries about the house he was purportedly drinking in. A police action notes that being seen in the street was of limited significance, although it notes that Person BBB could have been gathering evidence. It was known that Person BBB, and other members of UDA/UFF, drank in a house in Fernwood Street.
- 13.55. Another message received at 1:30am a few days later from an anonymous caller to Ballynafeigh RUC station stated *"I am ringing about the murder it was someone from this street. No one came in or left"*.
- 13.56. In late November 1992, a message received from an anonymous caller named a man whom he stated *"should know who murdered Mr Gilbride on the Ormeau Road"*. This intelligence did not implicate this person in the murder and it was not known what was implied in this intelligence. The person named by the anonymous caller does not feature in the police investigation and there is no other corroborating information about him.

Missed Investigative Opportunities

- 13.57. My investigators established that the first intelligence police obtained in connection with the murder of Mr Gilbride was received within days of the murder. This implicated Person BBB as having some involvement in the murder, although it did not state the nature of his role. My investigators found no evidence that this intelligence was disseminated to police officers investigating the murder.
- 13.58. In mid-November 1992, SB received intelligence reporting that Person JJ may have committed the murder of Mr Gilbride and that Person BBB was responsible for planning the attack. This intelligence was marked 'CID informed'. The murder investigation papers do not record receipt of the information. My investigators have established that Person JJ was arrested in early December 1992. The mention of Person BBB would also have supported the earlier intelligence in November 1992. The non-dissemination of this intelligence potentially deprived the SIO from generating new or further lines of enquiry.

Public Complaints

- 13.59. The family have raised a number of complaints and concerns arising from the police investigation, they are detailed as follows:-

Mrs Gilbride stated that approximately six months after the murder of her husband the officer in charge of the investigation informed her that he knew who had carried out the murder of her husband but there was no evidence to charge them. Mrs Gilbride became very distressed and angry at this and states that the officer threatened her with arrest if she did not remain calm.

- 13.60. My investigators sought to speak with the RUC SIO in charge of the investigation. However, he declined to assist the investigators. Therefore, I have not been able to progress this allegation.

The family were not updated of any investigative developments and no Family Liaison Officer was appointed.

- 13.61. It has been well documented over the years, not least in the MacPherson report and the findings made by Lord Justice Clark, that where persons had been murdered or tragically killed in accidents in the years prior to 2000, many Police Forces throughout the UK failed the families of the bereaved and did not support them or keep them sufficiently updated.

Mrs. Gilbride believes that the weapon used to murder her husband was one which was imported from South Africa by a UDA/UFF Intelligence Officer, and that the use of the weapon in these circumstances displays collusion between Loyalist Paramilitaries, the Police and British Military Intelligence.

- 13.62. I have uncovered no evidence to suggest that revolvers were part of the importation from South Africa, which is discussed in detail earlier in this public statement.

The family have concerns surrounding the evidence Witness 10 gave the Police. They are concerned that the witness was never asked to attend an identification parade or asked to produce a photofit of the gunman. She also has concerns regarding a vehicle that Witness 10 saw leaving the scene and the recovery and forensic search of this vehicle.

- 13.63. The evidence offered by Witness 10 was considered unreliable by police. My investigators visited the scene and concur that it is entirely possible that Witness 10 was confused as it was unlikely that she could have seen what

she claimed to have seen. The senior police officers had a photofit compiled based on the understanding that it was not 'the gunman' given Witness 10 did not witness the shooting. I am satisfied that the two senior officers had legitimate reason to doubt the reliability of the account given by Witness 10.

The complainant also has concerns regarding the fact that the gunman may have hidden in a derelict house facing the murder scene and whether the house was subject to a forensic examination.

13.64. My investigation has established that the derelict building was subject of examination. As previously stated, Police Officer 10 directed that two empty houses – No 31 & No 35 Ferndale Street were searched and forensically examined. It is known that a fingerprint expert attended No 35 and that tape lifts⁴¹ were taken from soft furnishings. One officer's journal entries refer to a detailed search of 35 Ferndale Street and the attendance of SOCO and photography. However this investigation has not established why No. 31 was not subject of the same forensic examination.

The Police did not inform the Mrs. Gilbride of her husband's murder. A family member actually told the complainant about her husband's murder.

13.65. Mr Gilbride was murdered outside his parents' house whom he was visiting for lunch. It is possible that it was family who informed Mrs. Gilbride of the murder of her husband and not the police.

⁴¹ The use of tapes to recover trace evidence is frequently referred to as tape lifting and the tapes once used for this purpose and secured to a backing are known as tape lifts.

<https://www.labmate-online.com/article/microscopy-and-microtechniques/4/staffordshire-university/a-novel-tape-lifting-system-or-the-retrieval-of-trace-evidence-from-crime-scenes/1516>

The complainant does not believe that a full and comprehensive investigation was conducted due to collusion.

13.66. I have been critical of a number of failings by police in their investigation but these failings were in my view not substantial. There is no evidence that police actively protected any individuals from prosecution.

As a result of a newspaper article in 2007, the family are concerned Person 1 was involved in this murder and as a result of collusion between him and police he was protected from prosecution.

13.67. Upon reviewing the police investigation, there is no evidence that Person 1 was involved in this murder, or that police protected him from prosecution.

14.0

The Murder of Mr Martin Moran

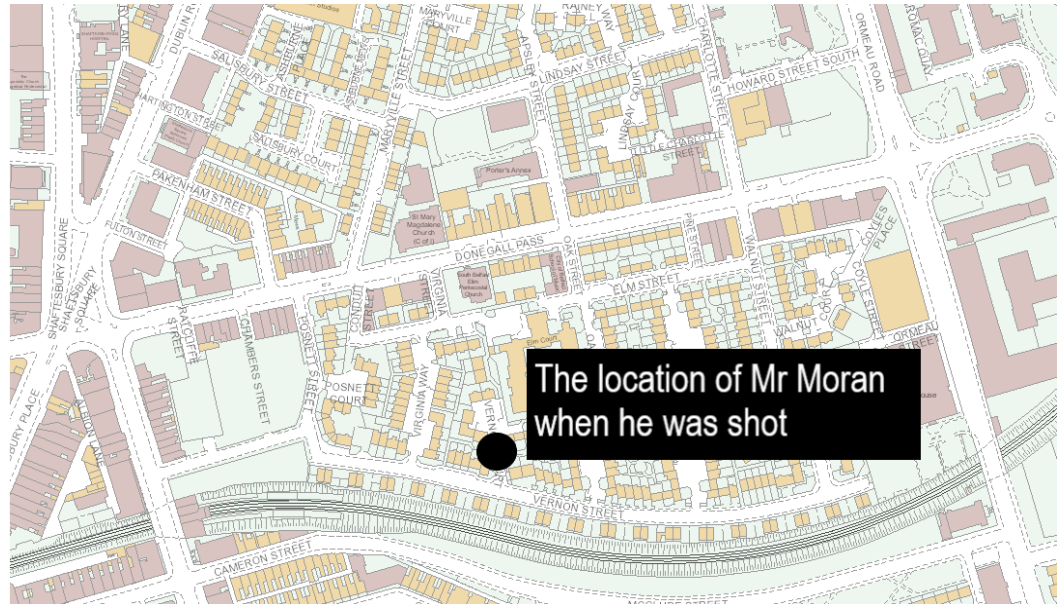
Background

- 14.1. Mr Martin Edward Moran was 22 years old when he was murdered. He had a partner and a five week old child. Mr Moran was employed, on a part time basis, as a delivery driver by a Chinese Takeaway on the Dublin Road, Belfast.
- 14.2. On 23 October 1993, the Chinese takeaway received a telephone call requesting that a meal be delivered to a nearby address. Mr Moran was to deliver the meal to the specified address. He was using a borrowed Ford Sierra motor car.
- 14.3. At approximately 11:50pm that night, the two occupants of a house in Vernon Court, Belfast were in bed when they heard three "cracks". Upon looking out of their bedroom window, they saw Mr Moran lying on the ground by the front entrance door to their house. They called the police, who arrived a short time later. Enquiries revealed that neither occupant had placed a food order for delivery with the Chinese takeaway. Mr Moran had sustained gunshot wounds to his head. He was taken to Belfast City Hospital for emergency treatment. At 11:05am on 25 October 1993, Mr Moran died as a consequence of the injuries sustained in the shooting.
- 14.4. No paramilitary group claimed responsibility for the murder of Mr Moran. His murder may have been in retaliation for the Shankill Road bombing 12 hours earlier, which killed nine Protestants and one of the IRA bombers.

14.5. No persons have been prosecuted in respect of the murder.

Map of the area.

14.6.



The Initial Police Response

14.7. The first officer on the scene saw Mr Moran lying on the doorstep. He administered first aid until the ambulance arrived and, when the ambulance left, he commenced a scene log.

14.8. The Senior Investigating Officer appointed was Police Officer 9 and Police Officer 17, from Donegall Pass Police Station, supervised the enquiry. Neither former officer has responded to requests by my investigators to assist with this investigation.

- 14.9. The police investigation into this murder was managed on the HOLMES computer system. The investigation papers are contained in one box file, which was secured and retained by my office.
- 14.10. In keeping with the practice and procedures adopted at the time, the crime scene was subject to a full examination. It was photographed and mapped. The army also attended the scene, as was common practice at that time.
- 14.11. The following day, the scene was searched again for evidence by police and army. A Detective Constable found a blue balaclava lying in undergrowth in an alleyway at the rear of Pine Way, Belfast. He seized this as an exhibit. Police case conference notes on 25 October 1993 state that this item was not considered to be connected to the murder.

House to House Enquiries

- 14.12. House to house enquiries were carried out in Vernon Court, Virginia Way, Elm Street, Elm Court, Pine Way, Oak Way and Vernon Street. On reviewing the maps of the area at the time, this was an appropriate house to house strategy. The vast majority of the house to house enquires identified that occupants were generally in bed and saw or heard nothing. Some residents heard the shots and others thought the shots were fireworks.
- 14.13. No positive lines of enquiry resulted from the house to house enquiries. No person had actually witnessed the murder or identified any suspicious activity before or after the incident.

Reconstruction

- 14.14. There was no reconstruction conducted in this case. The area in which Mr Moran was murdered was a cul-de-sac. It had already been established that the vast majority of residents were in bed at the time. There was no through traffic. Therefore, a reconstruction was not necessary.

The RUC communication with the bereaved family

- 14.15. There was no documented family liaison strategy in this investigation. A police Family Liaison Officer (FLO) was not a feature of policing at the time of these murders. This role was not introduced into the RUC until in or around 2000. Therefore no Family Liaison Logs exist in relation to this investigation.
- 14.16. On 20 November 1993, Police Officer 17 and a Detective Sergeant visited Mr Moran's father at his home address and updated him on the investigation into the murder of his son. There was no documented family liaison strategy as there would be today.

CCTV/Passive Data

- 14.17. Police requested information from the military in respect of traces on Mr Moran' car and the car he had borrowed on the night in question. An action was raised to ascertain if there were CCTV cameras covering the scene. Neither of these lines of enquiry advanced the investigation.
- 14.18. An action was raised to establish what, if any, police and army VCPs were operating on the evening of the attack in the area of Donegall

Pass/Vernon Street and if there had been any sightings recorded. None were identified. There were no VCPs carried out in the area. Static VCP were at Botanic Avenue and Belfast City Hospital between 8:30pm and 2:30am. Mobile and foot patrols were in the Lower Ormeau Road/Holylands area between 9:00pm and 1:00am.

The firearm used in the murder of Mr Moran on 23 October 1993

- 14.19. A forensic examination of the ballistic exhibits recovered from the scene established that the bullets had been discharged from a .38 calibre Webley-type revolver. Research established that the weapon had no previous history of use.
- 14.20. The firearm is believed to have previously been made inoperable, under circumstances which cannot be established but had been reactivated by individuals unknown.
- 14.21. The weapon was recovered on 9 September 1994 from an address in Rathcoole Estate, just outside Belfast. There is no evidence that enquiries were conducted by the RUC murder investigation team to identify the origins of the .38 Enfield revolver or to establish by who and when it was reactivated.
- 14.22. This Enfield revolver was subsequently sent to weapons control on 30 December 1996. The PSNI have not been able to clarify if this weapon was destroyed or its current whereabouts.

The RUC approach to witnesses

- 14.23. Vernon Court is a quiet cul-de-sac in the Donegall Pass area of Belfast, with a number of footpaths leading from it. The occupants of the house

where Mr Moran was shot, stated that they did not see who fired the shots and police conducted house to house enquiries in the area to identify witnesses. A sheltered housing complex overlooked the scene and police identified two elderly residents who may have seen the gunman.

14.24. One of the residents stated that at about 11:45pm, she heard what she thought were fireworks and looked out of her first floor flat living room window, onto Vernon Court, where she saw *'a dark figure run along the footpath in front of my flat. He was running very quickly, he appeared to be of slight build, not very tall and wearing dark clothing. I just saw him briefly from the side and back. He ran past on the footpath towards Oak Way'*.

14.25. The second resident stated that at about 11:50pm, she was in her flat when she heard one shot and looked out of her window onto Vernon Court, where she saw *'one man running away from a door over to my right, he ran along in front of my flat and into Oak Way. This man was dressed in dark clothing and looked in his thirties. He was running very fast'*. The witness indicated she would not be able to identify the person again.

14.26. I am of the view, based on all available evidence and information, that the person who was seen running away from the scene, was likely to have been the gunman who murdered Mr Moran. However, the witnesses saw him only fleetingly in the dark. Therefore, it is not surprising that their descriptions are only of a general nature and do not contain any detail, such as a facial description. House to house enquiries did not identify any other persons who witnessed the shooting or the gunman leaving the scene.

14.27. Police also recorded a statement from one of Mr Moran's co-workers, who reported that she was delivering a Chinese takeaway to Virginia Way, near to Vernon Court, approximately five weeks earlier. When she got there, the house was in darkness. She spoke to a person in Vernon Court who didn't know who lived at Number 5 Virginia Way. She believed the circumstances to be suspicious and did not get out of the car.

The RUC approach to suspects

14.28. There was no documented suspect strategy established by the RUC. Despite the lack of witnesses to the shooting, police arrested a number of people who were questioned about the murder. However, due to the lack of evidence available, they were released without charge.

14.29. It is evident from the case papers, that police researched both occupants of the house where the shooting took place, and considered whether they could have potentially been involved in the incident.

14.30. On 25 March 1993, police conducted eleven house searches in connection with the murder. The searches were negative. It has not been possible for my investigators to establish the rationale for these house searches, due to the lack of documented policy decisions.

14.31. In early November 1993, Person FFF was arrested. A review of the interview notes indicated he was interviewed in relation to the murder and UVF membership. He stated that he had been drinking in the Ivy Bar on the night of the murder. The review of the interview notes established that police interviewer's continuously put to him that he had killed an innocent Catholic in retaliation for the Shankill bomb. Further, he was questioned about his membership of the UVF. He consistently denied both

allegations. Person FFF was interviewed thirty times by police while in custody.

- 14.32. Person GGG was arrested on the same day and was interviewed five times. During interview, Person GGG stated that he had been drinking from 1:00pm on the day of the murder. Police put to him at interview that his house was used for UVF meetings and he denied this. He denied membership of the UVF. It was put to him that the men believed to have been responsible for the murder had been in his house. However, he responded by stating he was very drunk at the time. It was clear that police did not suspect that he himself carried out the murder.
- 14.33. Person III was arrested five days later and interviewed five times by police. He denied membership of the UVF and denied keeping guns for them. It was put to him that he was involved in the planning of Mr Moran's murder at Person GGG's house but he denied this. He only heard of the murder the next morning. He was asked if he heard anyone planning the murder and he replied that he had not.
- 14.34. In November 1993, Person EEE was also arrested. A review of his statement indicated that police had no evidence of his involvement in the planning of Mr Moran's murder to put to him during interview. Police asserted to him at interview that he was a member of the UVF and that he was involved in the murder. However, he maintained, during the interview, that he had nothing to say. He also denied ordering a meal from the Chinese takeaway.
- 14.35. At the end of November 1993, Person HHH was arrested and interviewed on ten occasions. He stated that he had no recollection of the night in question. It was put to him that he was a member of the UVF, which he denied. He denied being involved in the murder.

- 14.36. Police spoke to a number of persons who were in the Ivy Bar on the evening of 23 October 1993, prior to the murder. Police also spoke to persons who had attended a party at the home of Person GGG later that evening. These actions did not lead to any new evidence or lines of enquiry.
- 14.37. On 8 November 1993, at 5.15pm, Police received a 999 call from a caller who stated that, if police wanted the culprit, they should arrest a person whose name could not be accurately identified on the call, at a given address. The 999 call was traced to an address in East Belfast. Police attended the address and there were three adults and a child in the house. All denied using the phone to make the call and all of the adults were noted being very drunk.

Suspect Vehicles

- 14.38. No vehicles were linked to this attack. The gunman was seen to flee the scene on foot.

Identification Parades

- 14.39. No Identification Parades were conducted due to the fact that the two witnesses stated they would not have recognised the man they had seen running in the area of the shooting.

Forensics

- 14.40. A number of scenes were considered by police to be potentially evidentially valuable and were forensically examined.

Crime Scene at Vernon Court

- 14.41. Examination of the scene of the shooting was undertaken by a SOCO. He recovered blood from the doorstep of the house in Vernon Court, and a bag containing the Chinese meal carried by Mr Moran. He also seized a toy spade from the doorstep, which was blood splattered. The scene was photographed, mapped and a fingerprint examination of the drain spouting to the side of the house was also completed, from which he recovered a fingerprint mark. The recovered items were subsequently submitted to NIFSL for forensic examination.

Ford Sierra

- 14.42. After initial examination of the victim's vehicle at Vernon Court, it was removed to Ballynafeigh RUC station for forensic examination. It was photographed and examined for fingerprints.

Post Mortem and Clothing from the Victim

- 14.43. On 26 October 1993, the postmortem examination was conducted at Belfast City Mortuary. A SOCO was present and took possession of the blood and urine samples, in addition to two bullet heads recovered from Mr Moran. The post mortem revealed that Mr Moran had sustained two bullet wounds to his head and a third bullet had grazed his head but had not penetrated the skin. The bullet head was recovered within Mr Moran's clothing.
- 14.44. The clothing of the deceased was also recovered from the hospital along with a bullet head found in the Mr Moran's shirt. Mr Moran's clothing was examined at NIFSL. This was undertaken to seek evidence relating to bullet trajectory, make and calibre of weapon used, the proximity of the

offender to Mr Moran when the firearm was discharged, and to establish any cross transfer of trace evidence. The scientist reported that on examination of the clothing he identified a single bullet entrance hole on the left hand side front pocket of Mr Moran's jacket which had penetrated the pocket and the lining.

Suspects and Forensic Findings

14.45. A letter from NIFSL, dated 2 December 1993, referred to the return of Mr Moran's clothing, as there were no items attributable to suspects which would enable any relevant comparison. My investigation has established that no significant items from any of the suspects arrested were submitted for comparison. It is noted that the arrests pre-date the letter from NIFSL. Therefore, it is my view that the prevailing rationale of the SIO was that there was no evidence that the offender/s had any physical contact with the victim, or indeed, his vehicle, at the time of the attack.

14.46. The fingerprints in this case were compared to outstanding prints from a hijacking of a delivery man's vehicle one month previously. This forensic examination confirmed there were no matches.

Intelligence and other Information

14.47. Anonymous information was contained in a message recorded on the Confidential Telephone Number. The caller gave three names of people he believed to have been involved. An action was raised to identify these men. Two of these three men were arrested during the police investigation. The third person was not positively identified.

14.48. At the start of November 1993, further intelligence was received by the enquiry team. This stated that, on the night of the attack, a meeting was

held in the home of Person GGG in Belfast. It was alleged that Person FFF left Person GGG's house and carried out the shooting of Mr Moran. Police arrested Person GGG and questioned him about meetings being held at his house, which he denied. Person FFF was also arrested and questioned by police.

14.49. In early November 1993, Witness 12 told police that a named man accused Mr Moran of telling someone in a bar who the getaway driver for the Sean Graham murders was. Witness 12 also stated that Mr Moran had the feeling that the Person Z, Person AA, and their friends, were watching him. A police action was raised in respect of this information but no evidence was uncovered.

14.50. Witness 12 further told police that, approximately one week before the murder, Mr Moran stated he saw an orange Fiesta outside the Chinese takeaway. There was a man and a woman in the car and they were outside the Chinese takeaway for approximately 2 hours. Four orange Fiestas whose last registered owners resided in the area were traced by police. However, this information did not lead to any evidential opportunities.

14.51. Witness 12 told police that Mr Moran had spoken to her about a time when he delivered a meal to the Ivy Bar and he had to wait 20 minutes to get paid. He had stated that people inside were talking about 'taigs' and what they should do with them. The owners of the Ivy Bar were spoken to about this matter. Neither owner had any knowledge of this incident.

14.52. Witness 12 told police that, during the first four weeks of working at the Chinese takeaway, a named man called three times to the takeaway, but did not order any meals. Mr Moran also told Witness 12 that this man was watching him at home. Police interviewed the named person about this

matter. He stated that the only time he called at the Chinese takeaway was to obtain a meal. He stated he did not see Mr Moran in the premises.

14.53. Police were also told by Witness 12 that Mr Moran had been followed a number of times. His parents were asked about this, but could not recall their son mentioning it.

14.54. On the 8 November 1993, police received information on the Confidential Telephone Line from an anonymous caller, who stated that Person HHH had committed the murder and that Person EEE was also there. Both of these individuals were arrested.

14.55. The enquiry team were also in receipt of intelligence that implicated Person FFF in the murder. Police arrested Person FFF and interviewed him. However, police had no evidence to charge him.

Missed Investigative Opportunities

14.56. I am of the view, based on all the available evidence and information, that police had an appropriate strategy for gathering and securing the available forensic evidence. Police interviewed numerous people at a local bar for any relevant information in relation to the murder, and made a number of arrests. Police conducted numerous house searches which did not result in any evidence being recovered. It has been difficult at times, in the absence of documented decision-making, to understand the rationale and justification for arrests and searches.

Public Complaints

- 14.57. The family have raised a number of allegations and concerns arising from the police investigation, they are detailed as follows:

A lack of contact from the police officers who were investigating the murder of Mr Moran.

- 14.58. There was no documented family liaison strategy in this investigation. It has been well documented over the years, not least in the MacPherson report and the findings made by Lord Justice Clark, that where persons had been murdered or tragically killed in accidents in the years prior to 2000, many Police Forces throughout the UK failed the families of the bereaved and did not support them or keep them sufficiently updated.

That the police failed to complete a thorough and complete investigation.

- 14.59. I am of the view, based on available evidence, that there were no failures in the police investigation into Mr Moran's murder. Police properly managed the scene, sought witnesses to the murder, searched properties and made a number of arrests. However, with no forensic evidence linking the suspects to the murder scene, and with no eyewitnesses who would have been in a position to make a positive identification, there was little likelihood of securing a prosecution.

That the Police investigation was not properly conducted due to SB collusion with UDA/UFF members who were protected by their SB handlers.

- 14.60. My investigation has not recovered evidence that would indicate police sought to protect the individuals involved in this murder from prosecution.

That an article in the Irish Times named Person 1, a high ranking UDA/UFF member which confirms our concerns and supports our complaint. He was named as having involvement in 20 murders, including the murder of Martin Moran.

- 14.61. There is no evidence or intelligence that links Person 1 to this murder. It appears from the available information that, in all likelihood, this murder was carried out by the UVF.

15.0

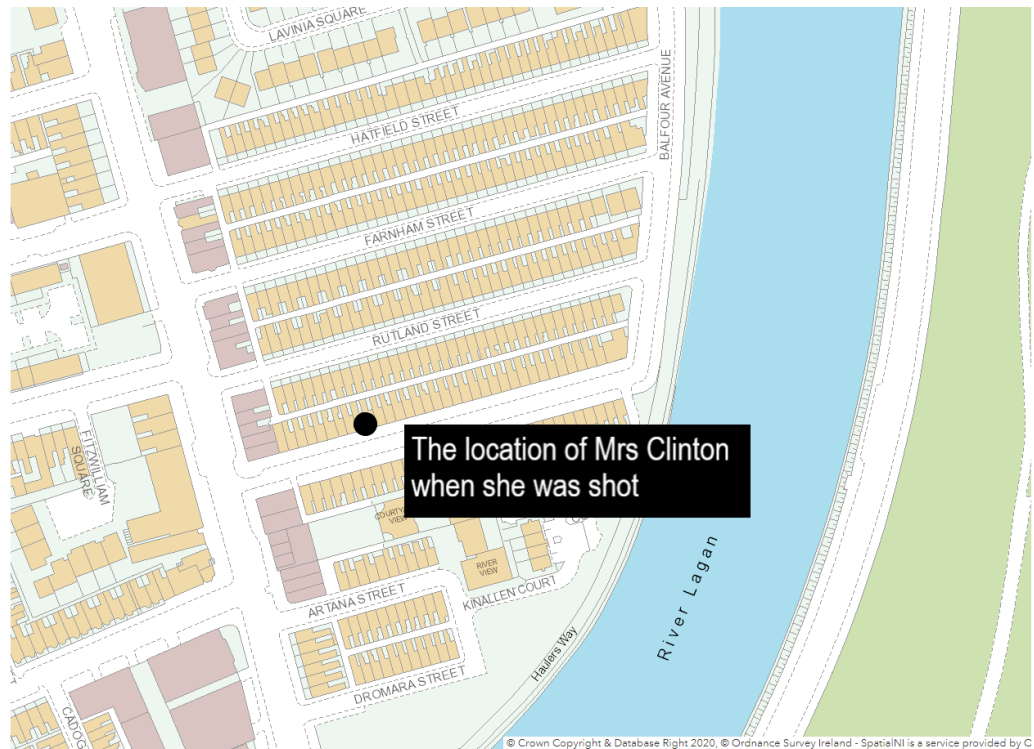
The Murder of Mrs Theresa Clinton

Background

- 15.1. Mrs Mary Theresa Clinton was thirty four years of age and married with two children. She lived with her family at 16 Balfour Avenue, Belfast.
- 15.2. On Thursday 14 April 1994, at approximately 11:25pm, Mrs. Clinton's next door neighbour was sitting in the living room of his home at No. 18 and, having heard noises in the hallway, discovered a man wearing a visored helmet and carrying a rifle. The armed individual left his house and, shortly afterwards, Mrs Clinton's husband, Jim, was awoken by a loud crash, followed by screams from his wife and the sound of gunfire. He looked out of an upstairs window and saw a car speeding off. He found his wife on the settee in the living room with multiple gunshot wounds. The glass in the front living room window had been smashed and a breeze block was found lying on a chair in the living room.
- 15.3. On 15 April 1994, at 12:25am, an anonymous caller to the BBC, using a recognised codeword, stated "*UFF claim responsibility for the assassination of Sinn Fein / P.I.R.A. member Jim Clinton within the past hour. Our volunteers after failing to gain entry through the window sprayed the house with gunfire seriously injuring Clinton's wife*".
- 15.4. No person has ever been prosecuted for Mrs Clinton's murder.

Map of the area.

15.5.



The Initial Police Response

- 15.6. The first police officers to attend the murder scene were uniform officers who were initially refused access to the murder scene by Mr Clinton. The scene was subsequently secured and a Serious Crime Log was commenced at 11:42pm. The log was closed at 4:25am on 15 April 1994.
- 15.7. The CID team was led by Police Officer 17 and the team consisted of three Detective Sergeants, thirteen Detective Constables and four Police Constables.
- 15.8. The police investigation focussed on the hypothesis that this was a sectarian murder; the intended target being Jim Clinton.

- 15.9. An examination by my investigators, of the archived material has revealed that there were in excess of seventy statements taken from witnesses, police officers and forensic experts.
- 15.10. My investigators established that the initial priorities were to secure the scenes at 16, Balfour Avenue, Belfast and 18, Balfour Avenue, the house to which a gunman first forced entry.
- 15.11. On 15 April 1994, at 12:08am Police Officers recovered a Vauxhall Cavalier car in Timbey Park, Ballynafeigh. The vehicle had been “hot -wired” and the engine was still running. The vehicle had been stolen sometime after 5:30pm on 14 April 1994, from the rear of a house in River Road, Dunmurry. A witness saw three men get out of the vehicle; two of whom she believed to be carrying motorcycle crash helmets. The men were seen to walk towards the direction of the Annadale Flats, via an alleyway situated in Timbey Park.
- 15.12. On 15 April 1994, following receipt of intelligence, a police search was conducted at the rear of Annadale Flats. A search of a shrubbery led to the recovery of a bag containing three guns, ammunition and other items. The recovered weapons included a Ruger revolver and a 9mm Sterling submachine gun. The weapons were subsequently identified as the firearms used in the murder of Mrs Clinton.
- 15.13. On 20 April 1994, a holdall containing two motorcycle helmets and two wigs was recovered by a member of the public while walking in Belvoir Forest. The investigation team worked on the assumption that the items may be linked to their murder investigation and this is discussed in more detail in the forensics section of this chapter.

- 15.14. Initial police lines of enquiry were centred on the securing and examination of the above scenes, which included photography, mapping, searches and onsite forensic examinations.
- 15.15. It is also known that searches in the vicinity of where the suspect car was recovered, included the deployment of a police dog, with negative results.

House to House Enquiries

- 15.16. House to house enquiries were prioritised as a line of enquiry early in the investigation and covered the key areas:
- I. Balfour Avenue and adjoining streets i.e. Rutland Street, Ava Parade;
 - II. River Road and Glenwood Park area of Dunmurry where the Vauxhall Cavalier was stolen;
 - III. Timbey Park, where the Vauxhall Cavalier had been abandoned after the murder;
 - IV. Candahar Street and Annadale flats area where the weapons used in the murder had been recovered.
- 15.17. A witness appeal questionnaire was prepared to be delivered to those addresses where the investigation team were unable to speak with the house occupants in person. However, a review of the house to house enquiry case papers suggests that a number of occupants were not interviewed or in receipt of an appeal questionnaire.
- 15.18. Case papers recovered indicated that, due to tensions in the area, the SIO only permitted police officers to visit the area, for the purpose of house to house enquiries, on three separate dates.

- 15.19. As a result of house to house enquiries, police identified a significant witness who saw three men get out of the Vauxhall Cavalier GXI 7500. The three men then joined a fourth man, who appeared to be waiting for them. All four then walked towards the Annadale Flats.

Reconstruction

- 15.20. On 21 April 1994, a week after the murder, an appeal for witnesses and information was conducted. Vehicles and pedestrians were stopped by police in an attempt to gather further information.

The RUC communication with the bereaved family

- 15.21. There was no documented family liaison strategy in this investigation. A police Family Liaison Officer (FLO) was not a specific feature of policing at the time of this murder. This role was not introduced into the RUC until in or around 2000. Therefore no Family Liaison Logs existed in relation to this investigation.
- 15.22. However, there are documents which identify limited contact with the family. These interactions occurred between 15 April 1994 and 16 February 1995.

CCTV/Passive Data

- 15.23. There was no CCTV available in this case.

Firearms used in the Murder of Mrs Clinton on 14 April 1994

- 15.24. On 14 April 1994, at 11:35 pm, two men discharged firearms at the living room window of 16 Balfour Avenue, fatally injuring Mrs Clinton, the wife of Jim Clinton.
- 15.25. The two weapons used in the attack were recovered by police the following day. The firearms were a 9mm re-activated Sterling submachine gun, which had no previous history of use, and an RUC issue .357 Magnum Ruger revolver.
- 15.26. It was established that, in 1993, 'Birmingham Proof House', a nationally certificated firearms proofing establishment, had certified the 9mm Sterling submachine gun as inoperable⁴². Upon enquiries by my investigation, the 'Proof House' was unable to explain how loyalist paramilitaries had subsequently obtained the submachine gun.
- 15.27. My investigation found no evidence in the CID investigation material that the RUC conducted enquiries to determine the circumstances by which the 9mm Sterling SMG was made inoperable and/or obtained by those responsible for the murder of Mrs Clinton.
- 15.28. My investigators identified a series of intelligence reports that were available to police from early September 1993. These reports stated that South and East Belfast UDA/UFF were involved in procuring firearms, previously made inoperable, from outside Northern Ireland. This

⁴² Birmingham Proof House was established by Act of Parliament 1813 as a compulsory and statutory testing of all new shotguns and small firearms before sale to ensure they are practical and safe. This is done by firing a considerably heavier load than is customary, through the barrel, to put excess pressure and stress on the barrel in order to disclose weakness in the gun. This is done to prevent injury to the user in the future. Birmingham Proof House is also responsible for certifying that a weapon is deactivated by stamping it and issuing a certificate.

intelligence also reflected that the UDA/UFF had access to both the technical knowledge and means to re-commission weapons.

- 15.29. The persons involved in the procurement of these firearms were known to police and were the subject of ongoing intelligence reporting. However, there is no evidence that these individuals were investigated by the RUC for this activity.
- 15.30. The 9mm Sterling submachine gun used in the murder of Mrs Clinton was recovered from PSNI's weapons reference collection by my investigators.
- 15.31. The second weapon used in the murder of Mrs Clinton had been a police issue personal protection .357 Magnum Ruger revolver. This firearm was stolen from a serving police officer during a robbery in December 1991.
- 15.32. In addition to the murder of Mrs Clinton in 1994, the Ruger revolver is believed to have been used in six other shootings, including three murders during 1992 and 1993.
- 15.33. The RUC murder investigation team investigating the murder of Mrs Clinton was aware of the origins of the Ruger revolver and requested intelligence concerning the circumstances in which it was stolen. Police did not hold intelligence relating to those who had been responsible for the robbery.
- 15.34. My investigators interviewed the officer from whom the Ruger pistol was stolen, concerning the circumstances of the robbery. He did not provide any information which assisted my enquiries.
- 15.35. The PSNI do not hold records relating to the disposal of the Ruger revolver.

The RUC approach to witnesses

- 15.36. As a consequence of the initial enquiries by RUC officers, a number of significant witnesses were identified at the murder scene. The location of the abandoned vehicle was also established.
- 15.37. Witness 13, having heard the sound of gunshots, saw through the window of his home, a blue Vauxhall Cavalier motor car pass by. He identified a partial registration number of GXI. The vehicle contained at least two people.
- 15.38. At around 8:30pm on the day of the murder, Witness 14 saw a blue car, possibly a Vauxhall Cavalier, driving along Rutland Street, towards Ormeau Road. The vehicle contained three occupants. Witness 14 made a mental note of the registration number of the vehicle.
- 15.39. Witness 15 was in the area of Rutland Street when he heard the sound of automatic gunfire nearby. He then saw a light blue Vauxhall Cavalier travelling at speed out of Rutland Street and he mentally noted the registration number. Witness 15 only saw the driver in the car and he stated that the driver looked to him to be a person he knew, Person BBB.
- 15.40. Another witness heard the sound of glass smashing, followed by gunfire. He then saw, from an elevated vantage point, a Vauxhall Cavalier car parked outside 16/18, Balfour Avenue. The vehicle contained two males, a driver and a rear seat passenger, who were then joined by a third male wearing a motor cycle crash helmet. This man also got into the rear seat of the vehicle. The vehicle was then driven off.
- 15.41. Witness 16 saw a Vauxhall Cavalier driving down Timbey Park, towards Ava Avenue. The vehicle's lights were off. The vehicle pulled up and the

three occupants got out of the vehicle. The witness saw that two of the vehicle's occupants were carrying black or dark coloured crash helmets with visors. The group joined another man and walked down a nearby alleyway.

- 15.42. Another witness stated that, after the shooting, he opened his front door and saw a green hatchback Cavalier car driving towards Lower Balfour Avenue. He described the driver as wearing a baseball cap and light coloured bomber type jacket.
- 15.43. A local resident stated that, after she heard the shooting, she looked out of her living room window and saw a car passing. She described the driver of this car as having fair hair, very short and would say he was in his late 20's or early 30's.

The RUC approach to suspects

- 15.44. The UDA/UFF publicly claimed responsibility for the murder and the investigation focused on identifying those members of the UDA/UFF who were most probably directly involved in carrying out the murder. This led police to arrest two suspects, the first being Person Y, followed by Person BBB, on 26 April 1994.
- 15.45. Based on intelligence, Person Y was arrested at 8:00pm on the 15 April 1994 and interviewed on eleven occasions before being released without charge on 17 April. He provided police with a detailed account of his movements and stated that he had been in the company of Person BBB in a local bar at the time of the murder. He stated that at closing time, Person BBB drove him to a friend's house, where he spent the night.

- 15.46. Person BBB, in his account to police, stated that he was in a local bar with Person Y and that they stayed there until 11:00pm or later. However, Person BBB stated that he then left the bar, drove home and that he did not know where Person Y went.
- 15.47. Over the following days, a number of witnesses came forward and gave various descriptions of the driver of the getaway vehicle. However, of most significance is the statement of Witness 15. In that statement he described the getaway driver in some detail and stated that he looked like Person BBB, who was known to him from having seen him around the Ormeau Road area.
- 15.48. In the early hours of 27 April 1994, Person BBB was arrested and his home was searched. He was interviewed under caution and gave the same account that he provided as a witness on 16 April 1994. It was put to him that a witness had named him as being the getaway driver. His response was that it was a case of mistaken identity.
- 15.49. My investigators reviewed police files. They found no evidence that police obtained alibi statements from the persons identified by Person Y and Person BBB, in their statements, as being in or about their company in the bar on the evening of the murder. Nor is there evidence of police interviewing the individual whose home Person Y purportedly stayed in after Person BBB had dropped him off there.

Suspect vehicles

- 15.50. On 15 April 1994, at 12:08am, Police Officers recovered a Vauxhall Cavalier car in Timbey Park, Ballynafeigh which had been used in the murder. It had been stolen in Dunmurry on 14 April, the day of Mrs Clinton's murder.

Identification Parade

- 15.51. On 28 April 1994, an Identification Parade took place with Person BBB at Donegall Pass Police Station. Witness 13, Witness 14 and Witness 16 failed to identify Person BBB from the Identification Parade. There appears to have been an issue of concern about the conduct of the Identification Parade. This related to the fact that witnesses had been led to believe they would view the line up from behind a viewing screen. The viewing screen was not available due to renovation work being completed and the witness viewings were completed face to face.
- 15.52. Person BBB refused to stand on the Identification Parade viewed by Witness 15. As a consequence, it was proposed that a confrontation identification would take place. However, Witness 15 refused to participate in this. Person BBB was later released without charge. There were concerns about the conduct of the Identification Parade in that allegations were made that police disclosed witnesses' personal details in front of the suspect. This led to formal complaints being made by the witnesses. Two police officers received 'advice' and 'constructive discussion' on conclusion of the investigation by the Independent Commission for Police Complaints for Northern Ireland.

Forensics

- 15.53. There were six key areas or scenes where the inquiry team concentrated their forensic strategy. These areas were:
- I. The crime scene at 16 Balfour Avenue and the adjoining premises at 18 Balfour Avenue;
 - II. The stolen Vauxhall Cavalier used in the murder;

- III. The recovery of the holdall near to Annadale flats containing three guns and a radio transmitter;
- IV. The recovery of a holdall in Belvoir forest which contained two crash helmets, two wigs, a pair of underpants and fragments of glass;
- V. House searches carried out by the inquiry team;
- VI. Forensic samples/clothing taken from arrested persons

15.54. My investigators established that the crime scenes at 16 and 18 Balfour Avenue were subjects of a full forensic examination. This included fingerprinting, photography and mapping. These examinations were conducted by different Scenes of Crime Officers (SOCO) to preserve evidence and avoid cross contamination issues. It is assumed that the perpetrators had mistakenly entered 18 Balfour Avenue, believing it to be the home of the intended victim.

15.55. The scene at 16 Balfour Avenue was secured by police and, at 11:45pm, a civilian SOCO attended and conducted an examination. A number of items were seized as exhibits, including the breeze block used to smash the window, and twenty spent cartridge cases. Scene tape lifts were taken, litter and road sweepings were secured from the street, and a control sample of glass was taken from the smashed window. Following an examination and search of the living room, kitchen and hallway at 16 Balfour Avenue, the SOCO also recovered bullets and bullet fragments.

15.56. A second civilian SOCO examined the door at 18 Balfour Avenue, where he recovered three fingerprint impressions and two palm impressions. Elimination fingerprints were taken from the occupant. The fingerprints were checked against the police database with a negative result.

15.57. The exhibits recovered from the crime scene presented the police inquiry team with several forensic opportunities. The bullet casings, bullet

fragments and bullet heads provided a ballistic opportunity that could identify the weapon used in the attack and any potential previous use of the weapon. The fingerprint impressions and palm prints could potentially establish the identity of the person who left them there. The breeze block presented a forensic opportunity, in that it could be examined for contact fibre comparison. In the present day, it would have provided an opportunity to examine it for DNA. However, in 1994, the potential for DNA recovery was not at the level of that process today, and there is little evidence of exhibits being revisited. The glass from the window could potentially be linked to glass found elsewhere.

- 15.58. A subsequent ballistic examination of the bullets and casings identified the origin of the weapons used. The breeze block was examined for fibres but none were found. It is also of note that a car parked in the street was the subject of a fingerprint examination also with negative results.

- 15.59. A yellow Volvo motor vehicle, which had been parked in the vicinity of 16 Balfour Avenue, was also examined for fingerprints in the event that the perpetrators may have inadvertently touched the vehicle while making their escape from the murder scene. Subsequent examination of the vehicle was negative.

The stolen Vauxhall Cavalier used in the murder

- 15.60. The Vauxhall Cavalier was forensically examined. No fingerprints were found, tape lifts were taken, and some glass fragments were recovered which were linked forensically to the glass from the broken window at 16 Balfour Avenue. However, this purported link was challenged following a Serious Crime Review Team (SCRT) review in 2004. The review identified that the glass was not sufficiently unique to be conclusively linked to the window at Balfour Avenue.

The recovery of the holdall near to Annadale flats containing three guns and a radio transmitter

- 15.61. On Friday 15 April 1994, police recovered a black holdall during a search of shrubbery near a football pitch, situated at the rear of Annadale Flats, Candahar Street. The bag contained three firearms and a radio transmitter.
- 15.62. One of firearms recovered from the holdall was a reactivated 9mm Sterling submachine gun. Its origin and history is discussed in detail earlier of this report. The forensic ballistic examination confirmed this firearm had been used in the murder of Mrs Clinton. There was no history of previous use and the origin of the weapon was unknown. It has been established that this weapon was deactivated at the Birmingham Proof House in 1993.
- 15.63. A .357 calibre Ruger Revolver was also recovered. This weapon had been stolen on 8 December 1991 during an armed assault on a serving police constable. This firearm has been forensically linked to Mrs Clinton's murder. In addition to this murder, it was also established that this weapon was used between July 1992 and October 1993 in three other murders, four attempted murders, and one shooting incident. Each of these incidents was attributed to the UDA/UFF.
- 15.64. The radio transmitter found in the holdall alongside the weapons, was incapable of receiving police broadcasts. However, it was capable of communicating with a similar item tuned into the same radio frequency.

The recovery of a holdall in a forest which contained two crash helmets, two wigs, a pair of underpants and fragments of glass.

- 15.65. On Wednesday 20 April 1994, a member of the public was walking in Belvoir forest, Shaws Bridge, Belfast when he found a sports bag

containing two motorcycle helmets, two wigs and a pair of men's underpants. The matter was reported to the police, who treated the area as a crime scene and seized the bag and contents, which were sent for forensic examination. The police also noted, and seized as an exhibit, a piece of ribbon which appeared to have been tied to a tree to mark the location of the bag. This item was also sent for forensic examination. A forensic scientist examined the crash helmets and recovered hair samples from within. These hairs were examined against hair samples taken from the two arrested persons. There was no match. The crash helmets and the piece of ribbon were examined for fingerprints and a fingerprint impression was found on the piece of ribbon. This impression was checked against the police fingerprint database but no match was found. Particles of glass were found within the bag. This glass was examined and it was concluded that "the glass was indistinguishable from glass from the broken window at 16 Balfour Avenue"

House searches carried out by the inquiry team

- 15.66. The home addresses of suspects, known UDA/UFF members, and arrested persons, were searched. Numerous items were seized, including clothing and a motorcycle helmet was recovered and seized from the home of Person Y.
- 15.67. Items seized during the course of those searches were the subject of a forensic comparison with samples taken from the various scenes. However, there were no matches. The two recovered motorcycle helmets from Belvoir, and the motorcycle helmet seized from Person Y's home, were shown to those witnesses who saw the perpetrators but none of the witnesses were able to make a positive link.

PSNI Review of Forensic matters

- 15.68. In June 2004, the PSNI SCRT commenced a review of the murder investigation on the premise that, with the advancement of forensic techniques, a number of forensic opportunities were still open. The review examined the assertion that the glass found in the bag recovered from the forest, was indistinguishable from glass from the broken window at 16 Balfour Avenue.
- 15.69. The review established that it did not provide a firm evidential link. The glass was found to be common “float glass,” which is mass produced and not in any way unique. Therefore, the bag, and its contents, could not be conclusively linked to the murder scene. Despite this, the contents of the bag were examined using advanced DNA retrieval techniques. The crash helmets, wigs and underpants were examined and swabs taken from these items. A swab from one of the wigs resulted in a complicated mixed profile of at least three people, both male and female contributors. A complicated mixed profile was also obtained from the other wig. Again, there were male and female contributors. Two or more DNA mixtures were recovered from the underpants with the major contributor being female.
- 15.70. An attempted comparison between the DNA profiles held on the police DNA database with those named in intelligence as potentially being involved in the murder of Mrs Clinton were checked against the complicated mixed profiles obtained from the re-examination of the bag and its contents. However, a complicated mixed profile cannot automatically be checked against all DNA held on the police database. As a consequence, a forensic scientist was assigned to physically check each suspect individual’s DNA against the mixed profile. There were no positive matches.
- 15.71. The review conducted by the SCRT, and thereafter, the HET, undermined the forensic link that the original inquiry team had made between the holdall,

its contents and the murder scene. Although this may have diluted the link to the murder, it did not exclude it.

- 15.72. The HET review sought to develop a DNA profile from the breeze block used to smash the window at Mrs Clinton's home in Balfour Avenue. These attempts were unsuccessful.

Intelligence and other Information

- 15.73. SB were in possession of pre-incident intelligence identifying that Person BBB was targeting someone on Balfour Avenue. The intelligence was not target specific. My investigators undertook a review of the CID investigation papers. There was no evidence this intelligence was shared with the CID. Unfortunately, the SIO has failed to engage with this investigation.
- 15.74. SB were in receipt of post-incident intelligence about the location of the firearms used in the murder. On 15 April, these items were successfully recovered.
- 15.75. During the course of the investigation, CID were in receipt of other, anonymous, which was acted upon.

House Searches

- 15.76. As a consequence of enquiries, and information received by the investigating team, police searched eleven residential properties within the Belfast area that were possibly linked to identified suspects. Clothing that could be linked to the suspects was seized for forensic examination and the officers were briefed to search for specific items, including motorcycle crash helmets.

Missed Investigative Opportunities

- 15.77. I am of the view, based on all the available evidence and information that police failed to adequately test and challenge alibi accounts given by suspects. This failure undermined the quality of the police investigation in that further lines of enquiry may have developed had the alibi accounts been challenged.
- 15.78. I am of the view, based on all the available evidence and information that police failed to conduct a properly organised identification procedure which may have adversely impacted on the willingness of witnesses to positively identify a suspect.
- 15.79. Police were in receipt of intelligence implicating Person LL in receiving and concealing the firearms used in this murder. My investigation did not find any evidence that Person LL's alleged involvement was disseminated to the murder investigation team. The non-dissemination of this intelligence potentially deprived the SIO from generating new, or further, lines of enquiry.

Public Complaint:

- 15.80. The family have raised a number of allegations and concerns arising from the police investigation, they are detailed as follows:

RUC investigation into the murder of Mary Theresa Clinton was not efficiently or properly conducted resulting in no person(s) being convicted of her murder.

- 15.81. Person BBB and Person Y were arrested and interviewed. My investigators have examined the interview notes. Neither person made any admissions and vigorously denied being involved in the murder, or being part of a paramilitary organisation. The interviews were lengthy and robust but there was no available physical evidence to put to either suspect.
- 15.82. Many witnesses were interviewed and provided statements to the inquiry team. No witness positively identified Person BBB on the identification parade. My investigation has not established the rationale for Person Y not being subject to formal identification procedures.
- 15.83. The main focus of the RUC investigation relied on an intelligence input which pointed to Person Y's involvement and the location, and successful recovery, of the firearms. The police documentation did not clarify why two suspects were arrested and questioned or why others were not. However, I accept that there was a lack of physical evidence to corroborate the intelligence. The SIO (Police Officer 17) was contacted by my investigators in order to establish his arrest strategy. Unfortunately, Police Officer 17 did not assist the investigation.
- 15.84. An area of significant concern is the failure, by CID, to conduct a thorough challenge the accounts of Person Y and Person BBB. Their accounts after caution are at odds with each other in respect of their movements on the night of the murder. Both detail who they were with before and after the murder. However, except for an account from one barman, there is no record to suggest their alibis were tested and challenged.

15.85. I accept that disproving an alibi may not, on its own, prove a person's guilt. However, confirming an alibi this is a basic investigative step and something that appears to have been neglected by the investigation team, in that there are no records to indicate that these enquiries were conducted.

That the Police failed to keep the family updated of investigative developments after the immediate days of the murder.

15.86. My investigators, who reviewed this case, noted the following contact with the family:

- I. 15 April 1994 - Telephone contact with Jim Clinton (Senior) regarding contact with undertakers after completion of the Post Mortem.
- II. 19 April 1994 - Meeting between Mr Clinton and Police Officer 17 and Police Officer 18, when he was updated in the investigation.
- III. 15 February 1995 – Update provided to Mrs Clinton's husband in person by a Detective Constable detailing that no persons had been made amenable.

No further records of family contact or meetings were located within the case papers.

15.87. My investigators spoke with Police Officer 18, who made the following statement *‘There was no clearly defined policy in terms of family liaison in those days and any contact was somewhat ad-hoc, on a kind of as and when required basis. Having said that, there was never any deliberate policy of not keeping the family updated or in the dark about progress in the case’.*

- 15.88. It has been well documented over the years, not least in the McPherson report and the findings made by Lord Justice Clark, that where persons had been murdered or tragically killed in accidents in the years prior to 2000, many Police Forces throughout the UK failed the families of the bereaved and did not support them or keep them sufficiently updated.
- 15.89. My investigators made enquiries with a serving PSNI officer who has been a Family Liaison coordinator for ten years. He stated that, pre 2000, some SIO's were aware of Family Liaison and may have appointed someone to act as "Family Liaison" but there was no formal training, structure, note-keeping etc. This appears to be an accurate assessment, as examination of all the case papers has retrieved only limited mention of meetings with the family.
- 15.90. Research of archived RUC General Orders (Standard Operating Procedures) reveals that, pre 2000, there was no guidance with regard to contact or updating the families of the bereaved. The first firm guidance starts to appear in General Order 23/2001 where it states, "Early engagement of a FLO is essential" by the following summer General Order 10/2002 lays out in great detail the role of the family liaison officer and what is expected of both them and the SIO with regard to contacting and keeping note of all contact with the families.
- 15.91. I acknowledge the documented contact with the family. However, I conclude that there was no family liaison strategy employed at the time by police.

During the course of a Police Identification Parade the name and addresses of witnesses were divulged to Loyalists. Key witnesses then refused to take part in the procedure as they feared for their safety.

15.92. During the course of the police investigation, four significant witnesses were identified and invited to view an identification parade.

- I. Witness 13
- II. Witness 14
- III. Witness 15
- IV. Witness 16

All agreed to take part and attended Donegall Pass Police Station on the 28 April 1994. Person BBB consented to stand on the parade when it was viewed by three of the witnesses. However, he refused to stand on the parade when it was to be viewed by Witness 15. Witness 15 stated that he saw the Vauxhall getaway car being driven away after the shooting. He saw the driver and he thought it was a man he knew as Person BBB. The fact that no parade was organised in respect of Person Y would suggest that the one organised for Person BBB was on the strength of the statement provided by Witness 15. The SIO correctly considered Witness 15's potential identification evidence as being the first piece of tangible evidence to support the intelligence. When Person BBB refused to participate in the identification parade for Witness 15, their next consideration was to ask Witness 15 to take part in a confrontation identification parade with Person BBB. Witness 15 refused, citing the fact that, to do so, he would be in fear of his life.

15.93. It is known that a significant issue arose during the identification parade in that no protective screens were available. This issue was formally raised in 1994 by the witnesses who had agreed to attend the parade. The matter

was investigated by the ICPC at the time and two officers received advice and constructive discussion as a result.

- 15.94. My investigators traced all except one of the witnesses and recorded statements from them regarding the alleged failures of the identification parade.
- 15.95. Witness 13 stated that, on attending the police station, he found himself in the room where the parade was to be held. He continued that the policeman in charge had his statement and began to read it out. Witness 13 stated that his name and partial address were also read out. Witness 13 did not make any identification and walked out of the room.
- 15.96. Witness 16 stated that, on attending the Police Station, she was escorted to a waiting room by a uniformed officer. She stated that two other people, who were there to view the parade, were also present. She stated that the same officer informed them that the room used for the identification parade, with the two-way glass, was not available. Witness 16 stated that she was also told that she would be seen by all of the participants, including the suspect. Witness 16 stated that they were asked how they felt about this. She claimed that she wanted to help and agreed to continue, even though she was unhappy. The witnesses were then left, alone and unsupervised, in the room, allowing them to talk about the incident. Witness 16 also stated that the parade was held in a small room and that a uniformed police officer identified her by name and address in front of everyone present. Witness 16 did not make any identification and stated that the three of them left the police station together.
- 15.97. Witness 15 stated that, on attending the police station, he was met by a police officer who took him to a room with a snooker table in it. He stated

that Witness 13, and other witnesses, were already in attendance. Witness 15 stated that no police officer explained the identification procedure. Witness 15 described the other witnesses being escorted to view the parade and then being returned to the same room. From what was being said by the other witnesses, he came to realise that the usual identification room was not being used. He also discovered that they had been brought into a room where the suspect had been sitting, with others assisting with the parade, and that the name and address of one of the witnesses had been read out in front of everyone. Witness 15 stated that, when it was his turn to view the parade, he had still not been informed about what to expect. He walked along a corridor and saw a room to his right with its door open. He could see people sitting inside and realised that was where the parade was to be held and that there were no protective screens. He realised that he was potentially going to be placed in danger if he viewed the parade under those circumstances. Witness 15 stated that he was furious and began to argue his case with police officers who kept asking him if he would view the parade. He refused.

- 15.98. During the course of my investigation, retired Police Officer 19 was spoken to about the identification parade in question. He was appointed as the Inspector in charge of the identification suite at Donegall Pass police station in 1994, a month or two prior to the murder of Mrs Clinton. He was asked specifically about the allegations made by Mr Clinton.
- 15.99. He said that at no time were addresses of witnesses read out and there would be no procedural requirement to read out the addresses of witnesses. He said that parades did take place for three of the witnesses but no identification was made. Police Officer 19 stated that the fourth witness, Witness 15 refused when he discovered that there would be no screens available and he would have to confront Person BBB.

- 15.100. In relation to the allegation that Witness 13 was taken to the same room as the suspect, Police Officer 19 said that the screens were not available due to refurbishment. Police Officer 19 stated he had attended a conference with Police Officers 10, 17, 20 and 21. He stated that Police Officer 17 was adamant that the witnesses had said they would take part in the identification parade without the presence of a screen. It was put to Police Officer 19 *“Because of the way that the police conducted the identification parade, it is understandable why four key witnesses did not want to give evidence”*. Police Officer 19 responded that, *“the parade was conducted in accordance with information I had been provided with*. He said *“If the parades had been conducted in the manner that I had suggested, i.e. via a video procedure or a group procedure then the outcome possibly could have been different”*”.
- 15.101. It was also put to Police Officer 19 that *“the manner in which the identification parades were conducted shows that there was collusion between the Police and Loyalist Paramilitaries”*. He responded by saying *“As far as I am concerned, I do not believe that there was any form of collusion between the Police and Paramilitaries in order to sabotage any investigation against Person BBB. I have no doubt that all officers involved in the investigation in to Mrs. Clinton’s murder wanted the parade to be successful”*. He stated that main reasons for the failure of the parades were the absence of a screen, and the misinformation as to the willingness of witnesses to proceed without it. He denied the parade he conducted was intended to fail in order to protect Person BBB.
- 15.102. My investigators also spoke with Police Officer 20 who stated *“I have been asked to comment as to any suggestion of undue influence or pressure from the Special Branch during the investigation process. Specifically, the notion that the identity parade/s held in respect of Person BBB were deliberately sabotaged in order to 'protect' him from prosecution. I can say for certain that I never personally experienced such issues and neither*

myself nor Police Officer 17 would have ever countenanced any such interference. Our primary objective was always to bring the offenders to justice, and would have liked a Positive I.D. The running of the identity parades proved problematic simply because of the unfortunate timing surrounding the refurbishment of the identity suite at Donegall Pass. Any suggestion that this situation was contrived, or other options were ignored, in order to frustrate the identification process is incorrect". Police officer 20 went on to state "in respect of the suggestion that suspects were protected from prosecution, I would point out that in the Theresa Clinton case the persons arrested, including Person BBB, were probably detained as a result of SB intelligence in the first place. It is highly unlikely therefore, in my opinion, that there was ever any intention or conspiracy to protect such individuals from being made fully amenable for their suspected crimes".

15.103. I acknowledge that the alternatives were limited to video film parade or group identification. Both methods would require Person BBB's consent. However, I am of the view that asking Witness 15 to take part in a confrontational parade had little prospect of a successful outcome. I consider that police arrangements for the identification parade were wholly inadequate. There was no one way screen in place. Therefore, witnesses viewing the parade were in full view of the suspect. The police station at Donegal Pass was being renovated. This was the only identification parade suite in Northern Ireland. I am of the view that steps ought to have been taken by police to ensure the safety and comfort of witnesses.

15.104. I am of the view that an opportunity to secure significant identification evidence was lost by police, through lack of preparation. An examination of police documentation indicated that the inquiry team were aware of the problems with the parade suite at least three days before the identification parade was to take place.

It is noted on the conference notes dated 25 April 1994, and on a message form dated 26 April 1994, that Police Officer 17 was to liaise with Police Officer 19 regarding the parade. An opportunity was missed to rectify this gap in the police investigation. Person BBB's failure to stand before Witness 15 was a foreseeable and likely outcome and Witness 15 was, in all likelihood, going to refuse a confrontational parade. Under the circumstances, consideration ought to have been given to seeking legal advice on alternatives.

No one has ever been charged with the murder of my wife despite various eye-witnesses recognising one of those involved, a leading Loyalist who was later killed by the IRA in 1994, was seen by neighbours in the getaway car as it left the scene.

15.105. Mr Clinton's complaint implies that there was more than one witness implicating this individual as being involved in the murder. The available archived documentation, and the HOLMES data-base, have been examined by my investigators. There is only one reference to this sighting, which is contained within Witness 15's statement.

Police Officers who had previously visited his address passed on details of the house security measures to persons carrying out the attack. This is the reason the offenders threw a breeze block through the window before opening fire.

15.106. No evidence obtained by this investigation supports the view that any member of the RUC provided loyalists with information relating to the home security measures adopted by Mr Clinton.

- 15.107. My investigators made enquiries to establish if any police officers had attended the home address of Mr Clinton. However, no officers were identified. I note that police served a threat warning on Mr Clinton in 1989 when he resided at a different address, but this does not identify any police officer who may have attended 16 Balfour Avenue.
- 15.108. I am of the view that the perpetrators of this murder were 'prepared' for security measures at the house in that they appear to have taken a breeze block with them which was used to smash the living room window. However, in the context of the intelligence that was known leading up to this murder, this was not an indiscriminate attack or random attack. There is also intelligence available that indicates that, at one point, the UDA/UFF were not going to target high profile republicans as they had extra security at home and 'softer' targets were being sought. It was likely that the UDA/UFF would have considered the possibility that the Clinton home would have had additional security measures.

That the firearms used in the murder of his wife were part of a consignment of weapons brought into Northern Ireland from South Africa by Brian Nelson who worked for British Intelligence.

- 15.109. The weapons used in this murder are identified as a 9mm re-activated Sterling submachine gun and a .357 Magnum Ruger Revolver. There is no evidence that these weapons were part of the consignment of weapons brought into Northern Ireland by loyalist paramilitaries, as set out in the public complaint. The loyalist importation of weapons was discussed in detail in Dr Maguire's public statement on the murders at the Heights Bar in Loughinisland. The significance of the loyalist importation is outlined at chapter 5 and chapter 18 of the public statement.

Complaint extends to the claims made in a newspaper in 2007 that Person 1 was involved in his wife's murder and that he was afforded protection from prosecution because he was a SB agent.

15.110. The Police Ombudsman will neither confirm nor deny the status of any individual. However, there is no evidence found as part of this investigation, that any individual was protected from prosecution.

16.0

The Murder of Mr Larry Brennan

Background

- 16.1. Mr Larry Brennan was 51 years of age at the time of his murder. He was in a relationship with a Protestant woman from a loyalist estate in Newtownabbey. He worked as a taxi driver for Enterprise Taxis.
- 16.2. On Monday 19 January 1998, at approximately 7:20pm, Mr Brennan was sitting in his taxi outside Enterprise Taxis on the Ormeau Road when it is claimed a lone gunman approached him from across the road and fired four shots through the driver's window, injuring him. Mr Brennan was transferred to the Royal Victoria Hospital by ambulance where he was treated for his injuries. He died at approximately 8:15pm that night.
- 16.3. No paramilitary group claimed responsibility for the murder. However, Mr Brennan had previously been threatened by loyalists.

Map of the area.

16.4.



The Initial Police Response

- 16.5. The SIO was Police Officer 22. The DSIO was Police Officer 23. They were assisted in the investigation by two sergeants and six detective constables. A Crime Scene Log was commenced at 7:30pm and closed at 10:36pm. The immediate scene around the victim's car was cordoned off by uniformed officers, upon their arrival. Outer cordons were put in place to include side streets and the main road. The cordons were operated by the police and the military.
- 16.6. All relevant agencies were tasked by the SIO. The scene was attended by a scenes of crime officer, who conducted a forensic recovery examination. The scene was also photographed, videoed and mapped.
- 16.7. The SIO ensured the vehicles parked on either side of the victim's car were examined for fingerprints in the event that the perpetrator may have touched one of them.

- 16.8. The SIO directed that two telephone boxes, opposite the scene of the shooting, were examined for fingerprints by the SOCO, working on the premise that the attacker/s may have used the telephone boxes as an observation point.
- 16.9. Other actions on the night included searches by police of Deramore Avenue, Kimberly Street to Sunnyside Street, Blackwood Street and Ava Street. All gardens, alleyways and bins were searched with negative results.
- 16.10. Police issued a press release, appealing for witnesses to come forward.

House to House Enquiries

- 16.11. Police conducted extensive house to house enquiries in the area of the shooting, around the Ormeau Road down to the junction with Deramore Avenue, and Blackwood Street and then across to Somerset Street and around the rear of the taxi depot. These areas covered the scene and the likely escape route. All business premises around the scene of the shooting were visited. The SIO noted that this was sufficient at that time, given the high profile of the murder in the media.
- 16.12. Following a find of clothing at the rear of a house in Ravenhill Avenue, the SIO expanded his house to house enquiries to include this area. House to house enquiries were also conducted in Haypark Avenue. Following the find of weapons at Annadale Flats in a storage cupboard, to which Person NN had the key, house to house enquiries were expanded to include Annadale Flats.

Reconstruction

- 16.13. On 26 January 1998, between 7.00pm and 8.15pm, one week following the murder of Mr Brennan, an appeal for witnesses and a reconstruction was conducted. A leaflet drop, appealing for information, was included in this exercise. The leaflet included a photograph of the deceased. A similar vehicle was used.

The RUC communication with the bereaved family

- 16.14. There was no documented family liaison strategy in this investigation. A police Family Liaison Officer (FLO) was not a specific feature of policing at the time of this murder. This role was not introduced into the RUC until in or around 2000. Therefore no Family Liaison Logs exist in relation to this investigation. However, a review of the police material revealed Message 33 which noted that the SIO instructed “the Family Liaison Officer is Police Officer 24”.
- 16.15. During the course of this investigation, my investigators spoke with the SIO, who is now retired. Police Officer 22 said *“With regard to family contact during the investigation I am pretty sure that at that time there was not a formal family liaison policy in place like there is nowadays. I did however take steps to ensure the family of the victim was kept abreast of any significant developments and I note from my policy book decision number 2 that I appointed Police Officer 24 as family liaison. He was experienced and would have maintained regular contact”*.
- 16.16. It is clear that Police Officer 22 had family contact as a priority and appointed an individual officer to provide a link between the investigation and the deceased’s family. My investigators spoke with Police Officer 24,

although, with the passage of time, he could not recollect specific details about this case.

- 16.17. Police Officer 22 was adamant that the family were kept informed and he stated that he always made a point of meeting with the family in any murder investigation. This appears to be corroborated by the complainant's statement to my Office, in which she describes meeting Police Officer 22 and him giving a long and detailed explanation about the evidence against Person NN and the reasons why he wasn't prosecuted.

CCTV/Passive Data

- 16.18. The SIO directed that all shops and business premises in the vicinity were to be visited in a search for video evidence that could be useful to the enquiry.
- 16.19. The SIO also directed that telephone checks be conducted for the public call boxes. The auto bank at the Ulster Bank was to be checked in order to identify suspects or witnesses. These checks proved negative.

The Weapon used in this Murder

- 16.20. The WERC report, dated 31 January 1998, established that the weapon used to murder Mr Brennan was a .38 SPL / .357 Magnum calibre 'Charter Arms' type revolver. This was consistent with the lack of recovered cartridges from the crime scene. The weapon was also linked to another murder in Belfast in 1997 which is not the subject of this report.

The firearm used in the Murder of Larry Brennan on 19 January 1998

- 16.21. The firearm used in the murder of Mr Brennan, outside a taxi depot, at Ormeau Road, South Belfast on 19 January 1998, was a .38 Special/.357 Magnum calibre Charter Arms type revolver.
- 16.22. This revolver was also used in a murder the previous year which, although not claimed by the UDA/UFF, is suspected of being linked to individual(s) associated with that organisation.
- 16.23. This weapon has not been recovered.

The RUC approach to witnesses

- 16.24. Police were able to identify a number of witnesses to the shooting, who provided evidence that a lone gunman, wearing a balaclava, was responsible for the murder. The gunman was seen crossing the Ormeau Road after the shooting and go into an alleyway. One witness reported hearing a vehicle speeding off from the alleyway shortly after the gunman disappeared out of view.
- 16.25. Numerous people witnessed the murder and gave broadly similar accounts which I do not intend to rehearse in full. The witnesses agreed that there was one gunman who fled the scene on foot. The witnesses saw the gunman for differing lengths of time and from a range of distances. They were consistent in their accounts that the gunman was wearing a dark jacket, dark trousers, a white t-shirt, white trainers and a baseball cap. They described the man as being of a slim build.
- 16.26. One 14 year old witness described the man as *“about 5’9” tall, thin, aged in his thirties, thin face. Wearing a black baseball cap, waist length black*

leather jacket, appeared zipped up, blue jeans and trainers". In her statement she stated 'I'd know him again if I seen him'.

- 16.27. On 5 March 1998, Witness 17 made a statement. Although he didn't witness the shooting, he heard the shots being discharged and, very shortly afterwards, saw a male acting suspiciously. Witness 17 described the male as "*about 5'11"- 6', not fat, not skinny, aged about 28-30 years, black hair, not too long, brushed back and a black moustache. Wearing a black bomber jacket, blue jeans and trainers.* The witness recognised this man from having seen him in the Kimberley Bar, and believed that his name was Person NN.
- 16.28. The majority of witnesses did not give any detailed facial descriptions. This is understandable given that most people only saw the suspect briefly, from a distance and in a dark street, albeit lit by street lamps.

The RUC approach to suspects

- 16.29. It is important to state that suspects in any enquiry are designated by the SIO, having evaluated the evidence, intelligence and information available at the time the decision was made. A person's status can change during the progression of an investigation as more information becomes available.
- 16.30. A review of the police material revealed that both Person NN and Person LL were arrested in respect of this murder. Person NN was charged with the murder. However, the charges were later withdrawn when a significant witness, Witness 17, withdrew his evidence. Person LL was not charged with the murder.
- 16.31. A witness early in the investigation had indicated that the gunman may have ran into a house in Blackwood Street. The occupant of the house was

identified and was similar in appearance to the assailant. However, after extensive inquiry, he was eliminated as a possible suspect. Items of clothing were seized and examined with negative results. It was documented that he had no previous convictions and there was no intelligence from SB implicating him. Lines of enquiry were prioritised around this individual, including verifying his whereabouts at the relevant time. He was subsequently eliminated from the enquiry.

Person NN

- 16.32. In early February 1998 police received intelligence from SB that implicated Person NN and LL in the murder, following which a decision was taken to arrest them both. Person NN had been implicated as the gunman and Person LL was alleged to have allowed Person NN to use his house after the murder to clean up. There was an unsuccessful attempt to arrest Person NN on the 10 February, although his house was searched and forensically examined on this date. On the basis of the house search and identification evidence a further decision was documented to arrest Person NN who was arrested the following day.
- 16.33. Person NN was detained and interviewed over a five day period. He declined to answer questions and made no admissions. The keys seized from Person NN at the time of his arrest were used to open a shed at Annadale Flats. Police discovered two firearms, three magazines and a quantity of ammunition inside the shed.
- 16.34. On 6 March 1998, Person NN agreed to stand on an identification parade. Six of the ten witnesses who were asked to attend by the police, agreed to take part in the identification parade. Witness 17 positively identified Person NN as the man he described, and named, in his statement to the police.

- 16.35. The SIO policy file documented a decision to revisit witnesses who had declined to attend the identification parade to ascertain their reasons. One further witness stated that they would attend an identification parade. The witness was initially afraid to attend, for fear of being recognised, but agreed to attend after he was reassured of police procedures. However, the witness did not view a parade because Person NN refused to stand again. The SIO considered other options, such as a covert confrontation. However, he later decided not to proceed on the basis that the witness had been frightened and was now too emotionally upset to participate in an identification process.
- 16.36. On 10 March 1998, Police Officer 22 charged Person NN with the murder of Mr Brennan and with possession of a firearm with intent to endanger life.
- 16.37. The police case against Person NN was based on identification evidence, forensic evidence and circumstantial evidence.
- 16.38. Witness 17 later withdrew his evidence despite police attempts to reassure him about giving evidence. The remainder of the case against Person NN was now reliant on limited forensic and circumstantial evidence. At this juncture, the PPS withdrew the charges against Person NN and he was not prosecuted for Mr Brennan's murder.

Person LL

- 16.39. On 8 February 1998, police received information from SB which named Person NN as the gunman. Further, that Person LL allowed his house to be used to clean Person NN afterwards. On 10 February 1998, Person LL was arrested under POT legislation. His home address was the subject of a SOCO examination, which proved negative for links to the murder. Person LL was interviewed regarding the murder. He refused to answer any questions and simply stated that he was at home at the time of the murder. He was released without charge later that day.

Person II

- 16.40. On 8 February 1998, police received information from SB which named Person NN as the gunman and Person LL as allowing his house to be used to clean Person NN afterwards. It also added that Person II had been approached by Person NN because he wanted to get more involved with the paramilitaries. The SIO policy log detailed that there was intelligence to indicate Person II organised the murder. While this message of 8 February 1998 does not implicate Person II in the murder, his potential involvement in the murder was put to him in August 1999 by a Detective Constable who stated *“I put it to him that he was present in the area of Enterprise Taxi’s on 19 January 1998 when Larry Brennan was shot dead in his taxi and that the gunman Person NN was being blooded for this murder to qualify for membership of the UFF”*. The officer stated that Person II remained silent and would not answer questions put to him.

Person BB

- 16.41. Person BB came to the notice of the enquiry team as a result of an ICIS Summary Document from August 1999 (19 months after the murder) which stated:

‘An unidentified man from the Malone Road provided intelligence to Loyalists that Brennan assisted the IRA in setting up the shooting of Person AA and Person BBB. This information was passed to Person Y and Person BB. After the murder of Billy Wright, Brennan became a potential target. Person NN carried out the shooting sanctioned by PersonII using a .38 Magnum’.

- 16.42. The report gave further details of events after the shooting. However, there is no further mention of Person BB. Other than the above I can find no further mention of Person BB in the file. Based on this and having regard to evidential standards, I am of the view there is no reason why he ought to

have been considered as a suspect by the SIO. There is nothing in the file to indicate that Person BB was protected from prosecution.

Suspect Vehicle

- 16.43. No vehicle was identified as being involved in this murder. The witness accounts at the scene confirmed that the gunman left the immediate area on foot.

Identification Parade and Photofits

- 16.44. The only identification parades are those previously referenced above in which Person NN took part. He was positively identified by one witness, Witness 17. Police prepared an artist's impression, based on the account of one witness. Other witnesses felt they could not provide sufficient facial details. A witness was shown a photo album but no identification was made.

Forensics

- 16.45. The original SIO policy books demonstrated that forensic opportunities were considered and rationalised at a very early stage and all activities associated with cases of this type were undertaken and documented within the policy decisions recorded. The conference notes also referred to actions in respect of forensic opportunities.

Examination of the principal crime scene at Ormeau Road

- 16.46. The scene was mapped and recorded by way of photography and video. However, no bullet casings were recovered. This suggested that the firearm used was a revolver. Mr Brennan's vehicle was removed to FSANI⁴³ where a more controlled and extensive forensic examination could take place.

⁴³ Forensic Science Agency Northern Ireland.

Mr Brennan's Toyota car

- 16.47. A control glass sample from the driver door of the vehicle was taken. Upon removal of the vehicle to FSANI, the vehicle was examined for fingerprints. Imprints were recovered and forwarded to the RUC fingerprint branch. There was nothing within the material viewed by my investigators that would indicate any of the outstanding imprints were identified or linked to potential suspect(s).

Recovery of items from Ravenhill Road

- 16.48. On Wednesday 21 January 1998, clothing was recovered from a wheelie bin in the Ravenhill Road area of Belfast. This was only a short distance from the murder scene and the clothing recovered matched that as described by witnesses. The following items were recovered: black coat, Nike trainers, underpants, navy coloured sweat shirt, 'T' shirt, baseball cap and black track suit bottoms. All items were submitted to FSANI. Examination for gunshot discharge residue proved positive on gloves, black coat, sweat shirt and tracksuit bottoms.

Suspects and Forensic Findings

- 16.49. Both Person LL and Person NN were arrested during the police investigation. On 10 February 1998, Person LL was arrested under POT legislation and his home address was the subject of a scene of crime examination, which was described as proving negative.
- 16.50. Police sought to arrest Person NN on the same date as Person LL, but he was not at home. However, police conducted a SOCO examination of his address and submitted a number of items to FSANI, including samples of carpet. After examination, a comparison was made with carpet fibres found on the socks and training shoes recovered from the wheelie bin in Ravenhill Road and the carpet samples taken from Person NN's home address.

- 16.51. On 5 February 1998, Person NN was arrested and a pair of Nike trainers were seized from him. During subsequent house searches linked to Person NN, police recovered two shoe boxes for trainers which matched, in many respects, the trainers recovered from the wheelie bin, and those seized from Person NN at Castlereagh. Examination of the insoles of the trainers, known to be worn by Person NN, and the trainers recovered from the wheelie bin, strongly supported the contention that Person NN was the wearer of both pairs. Further animal hairs recovered from clothing found in the wheelie bin matched a sample taken from Person NN's dog.
- 16.52. The forensic examinations conducted did not identify evidence that could reliably forensically link any of the suspects with the Toyota motor car or the crime scene.
- 16.53. These efforts proved inadequate in obtaining sufficient evidence to allow any person to be prosecuted for the murder.
- 16.54. The overall forensic strategy was of a good standard which contributed towards a determined attempt to identify Mr Brennan's murderer.

Intelligence

- 16.55. In addition to intelligence disseminated to the enquiry team from SB, that has already been discussed, further information was received by police.
- 16.56. Within a few days of the murder, police received a message from an employee of Enterprise Taxis, who reported what he regarded as suspicious behaviour by Person HHH on the night of the murder. He reported that an unnamed driver had told him that, at about 7:00pm, Person HHH was sitting in his taxi, parked well down Somerset Street, near to its junction with Parkmore Street and keeping well away from Ormeau Road. He thought this was suspicious because the drivers normally park close to

the junction with Ormeau Road to be near the taxi office. A number of police actions were raised in relation to Person HHH and a statement was recorded from him regarding his whereabouts at the time in question. This line of enquiry did not progress the police investigation. There was no intelligence contained within the police file that would indicate that he should have been considered as a suspect. The SIO directed no further action.

16.57. Around the same date, police received information from a telephonist at Enterprise Taxis, who had received two telephone calls from two different anonymous callers. The first stated Person III, from Shore Road, and Person Z, from the Upper Ormeau, were responsible for the murder. The second caller stated 'You're looking for Person Z and Person III'. There was no other intelligence, and no evidence that either of these individuals were involved in Mr Brennan's murder. They were researched by the police enquiry team and the SIO directed no further action.

16.58. In late February, information was received by police, stating that a further two men were involved in the shooting. Actions were raised to research these individuals, following which the SIO directed no further action.

16.59. In October 1999, 20 months after the murder, a man previously unconnected to this murder was arrested for a hi-jacking offence. He admitted to the murders of Mr Brennan and another man. However, police conducted a review of the admissions and concluded that this person could not be linked to the murder and that there was no intelligence that would connect him to the murder.

Missed Investigative Opportunities

16.60. My investigation has not identified failings on the part of the CID SIO investigating Mr Brennan's murder.

16.61. However, intelligence was received by police, shortly after the murder, that Person II and another man both of whom were associated with the South Belfast UDA/UFF, were involved in the attack and that Person II had supplied the murder weapon, which had been obtained from North Belfast UDA/UFF. This intelligence also provided the identity of a person who had allegedly assisted in the targeting of Mr Brennan and stated that the individual responsible for the murder had gone to a 'safe house' at Annadale flats immediately after the attack. My investigation found no evidence that this information was disseminated to the detectives investigating the murder of Mr Brennan. I am of the view that the non-dissemination of this intelligence potentially deprived the SIO from generating new or further lines of enquiry.

Public Complaints:

16.62. The family have raised a number of allegations or concerns arising from the police investigation, they are as follows:

There was an incompetent investigation conducted by the RUC which resulted in no person standing trial for the murder.

16.63. I am of the view, based on the available evidence, that the initial police response was commensurate with the serious nature of the attack. Police arrived at the scene shortly after the shooting. The scene, including the victim's taxi, was subjected to a forensic examination, mapped and photographed. The SIO identified numerous witnesses, one of whom was able to positively identify Person NN. Appropriate forensic lines of enquiry were developed which assisted in linking Person NN to the murder, to some degree. The police investigation was substantial. It was recorded on the Home Office Large Major Enquiries System (HOLMES). During the course of the investigation, 317 statements were recorded and 404 actions were raised.

- 16.64. The police investigation was sufficient to charge the suspected gunman, Person NN. Witness 17 withdrew his evidence which resulted in the DPP withdrawing the charges against Person NN. When my investigators spoke with Police Officer 22 he stated *“With regard to witness 17 later withdrawing his evidence I remember being very disappointed because I felt sure Person NN was responsible for Mr Brennan's murder, and as such I went to see witness 17 to try my best to support him”*. The officer went on to say *“I discussed with him special measures that could be taken to protect him but his main concern was even if a screen to conceal his identity was utilised he would be identified I remember him saying he wanted to move to England and I suggested we could help him with this if he continued to support the prosecution but ultimately he had made his mind up. Even without witness 17's evidence I still felt we could prosecute and I remember going for a consultation with the DPP. I tried my best to persuade them to carry on with the prosecution against Person NN, even without the evidence of witness 17”*. The officer was not successful in trying to persuade the DPP to continue the prosecution.
- 16.65. The SIO sought guidance from the DPP regarding attempting a second identification parade in July 1998. However, PPS instructed that, as Person NN had been charged, this was not possible. This is evidence of Police Officer 22's determination to ensure all avenues of enquiry were explored and I commend him for this.
- 16.66. The SIO also stated to my investigators *“the murder of Larry Brennan was always a case I thought...could be solved. We were disappointed it never was but I felt we gave it, at all times, our best efforts”*.

The RUC failed to update the family as to developments of their investigation.

- 16.67. It has been well documented over the years, not least in the McPherson report and the findings made by Lord Justice Clark, that where persons had been murdered or tragically killed in accidents in the years prior to 2000, many Police Forces throughout the UK failed the families of the bereaved and did not support them or keep them sufficiently updated. No force would try to argue differently.
- 16.68. Family Liaison was clearly an area that the SIO considered in this investigation, in that he had appointed an officer to act in that role.

The family allege that there was no photo-fit issued in relation to any suspects.

- 16.69. The use of photo-fits was considered a line of enquiry during the early stages of the police investigation. Twenty three witnesses gave a general overall description of the suspect i.e. height, build, age and clothing. No witness had a good view of the gunman's face and, therefore, could give no detailed or evidential facial description. Police reviewed their statements to identify any witnesses who might be in a position to attempt a photo fit. One witness, who saw the gunman's face, albeit from a distance of 100 yards, attempted to assist, but was unsuccessful.
- 16.70. Two other witnesses provided sketches. One was of a male person seen in the area before the shooting. He was not believed to be the gunman. This sketch was in profile and was not sufficient in detail to be issued. The other sketch was of a person seen immediately after the fatal shooting of Mr Brennan. The witness was an artist and had created the sketch himself. The sketch only came to the notice of Police on 7 May 1998, during a follow up enquiry to the witness. By this time, police had names for the suspects. The rules governing the identification of suspects are set out in the Police

and Criminal Evidence (PACE) (Northern Ireland) Order 1989 (Article 60 and 65) codes of practice. Code D 2.19 states '*a witness must not be shown photographs or photofit, identikit or similar pictures if the identity of the suspect is known to the police and he is available to stand on an identification parade.*'

- 16.71. Intelligence was received at an early stage in this investigation, which named suspects. Therefore, the police acted in accordance with PACE NI, and the codes of practice, by not issuing photo-fits in relation to any suspect.

The family have concerns that witnesses were not asked to appear before identification parades, despite the fact that of the four witnesses, three had apparently given good descriptions via police statements in relation to the gunman.

- 16.72. An identification parade was arranged for Friday 6 March 1998. Police Officer 22 selected 10 witnesses to be approached regarding attending the identification parade. Six witnesses attended the identification parade which was; held at Donegall Pass Police Station Identification Suite. The parade commenced at 6:40pm and concluded at 8:00pm and was videotaped. The suspect was positively identified by only one witness.
- 16.73. Four witnesses failed to attend the parade. The following day, Police Officer 22 made strenuous efforts to establish the reasons for the witnesses' failure to attend. He made a policy decision '*To review I.D evidence and approach those witnesses who declined to ascertain whether their refusal was due to 1) Their belief that they would not pick out the suspect or 2) Their fear of the suspect etc. finding out who they were.*' The SIO's reasoning for this policy decision was 'to ensure that all avenues relating to identification had been followed'.

- 16.74. Police Officer 22 personally spoke to a witness who had failed to attend the parade because she was fearful she would be identified. As a consequence of this, the witness agreed to attend a parade and a further identification parade was arranged for 9 March 1998. The reason for the failure of the other three witnesses to attend is not documented. Therefore, I am unable to conclude on this matter.
- 16.75. The suspect exercised his right and refused to stand on the identification parade. He claimed the witness could have spoken with other witnesses who had attended the earlier parade and, therefore, the parade would not be fair to him. The option of a covert confrontation and an overt confrontation were considered by the SIO, but dismissed as impracticable. However the witness was no longer willing to take part, as she was too emotionally upset.

The family allege that as a result of collusion, a known Loyalist who was arrested and charged in connection with the murder, had his charges withdrawn despite there being strong forensic evidence.

- 16.76. My investigation has not identified any evidence that any person was afforded protection by police. The police investigation demonstrated the SIO's determination to have Person NN prosecuted. It is unfortunate that a significant witness withdrew his evidence and that the PPS felt they could not secure a successful prosecution without him.
- 16.77. ***The Complainant states that her complaint is that Person 1 was involved in numerous sectarian murders, including the murder of her brother, while he was the commander of the UDA/UFF in South Belfast and that, as such, his SB handlers protected him from prosecution.***
- 16.78. The Police Ombudsman will neither confirm nor deny the status of any individual. However, there is no evidence found as part of this investigation, that any individual was protected from prosecution. Police

Officer 22 told my investigators *“I have been asked if during the course of the Larry Brennan investigation I was ever put under pressure by the Special Branch not to pursue any lines of enquiry, or to not fully investigate the matter. I can say this never happened nor would I have every countenanced any such interference”*.

17.0

Procedural Fairness

- 17.1. In concluding this public statement, I am mindful of the need to ensure procedural fairness to those who may be affected by its content. Mr Justice McCloskey (as then) in the High Court in *Re Hawthorne & White*⁴⁴ provided guidance to this Office as to what was generally required. In particular, I have considered relevant passages from that judgment which I outline here for ease of reference, highlighting the requirements of procedural fairness in this context:

[113] In my judgment, it matters not that the police officers thus condemned are not identified. There is no suggestion that they would be incapable of being identified. Further, and in any event, as a matter of law it suffices that the officers condemned by the Police Ombudsman have identified themselves as the subjects of the various condemnations. Procedural fairness, in this kind of context, cannot in my view depend upon, or vary according to, the size of the readership audience. If there is any defect in this analysis it is of no consequence given that the overarching purpose of the conjoined challenge of the second Applicant, Mr White, belongs to the broader panorama of establishing that reports of the Police Ombudsman couched in the terms considered exhaustively in this judgment are unlawful as they lie outwith the Ombudsman's statutory powers.

[114] The somewhat different challenge brought by Mr White, imbued by corporate and broader ingredients, gives rise to the following conclusion, declaratory in nature. Where the Police Ombudsman, acting within the confines of his statutory powers, proposes to promulgate a "public statement" which is critical of or otherwise adverse to certain persons our fundamental requirements,

⁴⁴ [2018] NIQB 5

rooted in common law fairness, must be observed. First, all passages of the draft report impinging directly or indirectly on the affected individuals must be disclosed to them, accompanied by an invitation to make representations. Second, a reasonable period for making such representations must be permitted. Third, any representations received must be the product of conscientious consideration on the part of the Police Ombudsman, entailing an open mind and a genuine willingness to alter and/or augment the draft report. Finally, the response of the individual concerned must be fairly and accurately portrayed in the report which enters the public domain.'

17.2. This process, sometimes called '*Maxwellisation*', involves four fundamental requirements as outlined by Mr Justice McCloskey:

- I. That all passages of the draft public statement impinging directly or indirectly on the affected individuals must be disclosed to them, accompanied by an invitation to make representations;
- II. A reasonable period for making such representations must be permitted;
- III. Any representations received must be conscientiously considered, entailing an open mind and a genuine willingness to alter and/or augment the draft report; and
- IV. The response of the individual concerned must be fairly and accurately portrayed in the statement that is published.

The '*Maxwellisation*' Process

17.3. In order to give the individuals concerned a fair opportunity to respond to any proposed criticisms in this public statement, correspondence was forwarded on or about 15 December 2021 to a number of former police officers and police civilian staff along with extracts from the draft public

statement that impinged directly or indirectly on them, seeking their comments. As is standard practice in my Office, a period of 30 days from receipt of that correspondence was provided in order for the individuals to respond.

- 17.4. Police Officer 17, Police Civilian 1, and Person J forwarded written responses to my Office, raising a number of issues and concerns. I also received a written response from another former police officer who, although not cyphered within the public statement, held a supervisory role at the relevant specialist policing unit during the period in question. The contents of their correspondence was the subject of careful and conscientious consideration by me.
- 17.5. No written responses were received from the other former police officers who were the subject of criticism, either explicitly or implicitly, as referred to in the draft public statement. Police Officer 7 contacted my Office indicating that he wished to respond but was unable to do so as he was unable to access his relevant police-issue notebooks and journals from the PSNI estate. This was due to circumstances beyond his control.

Police Officer attached to Specialist Policing Unit

- 17.6. He stated that the policy at the specialist policing unit where he worked was that records were not retained for long periods of time. He believed that retaining sensitive material presented an unnecessary security risk. He denied that '*collusive behaviours*' took place within the unit, adding that all operations were conducted in a highly professional manner, having been previously authorised.

Response to Police Officer attached to Specialist Policing Unit

- 17.7. I have carefully considered the comments of this former police officer. I believe that the contents of this public statement accurately reflect the policies and practices in place at the specialist policing unit where he worked during the relevant period. My findings regarding 'collusive behaviours' are detailed in the concluding section of this public statement.

Police Officer 17

- 17.8. Police Officer 17 stated that he had no recollection of having previously been contacted by my Office, asking that he assist this investigation. He added that he previously assisted an investigation of the relevant matters conducted by the Independent Commission for Police Complaints (ICPC). He also highlighted a section of the draft public statement which he believed identified him. He feared that this could breach his personal security and that of his family.

Response to Police Officer 17

- 17.9. I have carefully considered the comments of Police Officer 17 and amended the relevant section of this public statement to address his concerns regarding his personal security and that of his family. PSNI records confirm that correspondence from my Office asking Police Officer 17 to assist with this investigation was delivered to him on 29 May 2015.

Police Civilian 1

- 17.10. Police Civilian 1 stated that she was contacted by Mr Caskey's solicitor in 2010, requesting details regarding the attempted murder of his client on 9 October 1990. She stated that she researched relevant police databases

and other archived records, but was unable to find any record of the attack. She informed Mr Caskey's solicitor of the result of her enquiries and subsequently discovered that a previous request in 2009 had also located no relevant records.

- 17.11. She concluded that she was extremely disappointed that her competency and integrity to perform her duties had been brought into question. She stated that any actions taken by her in respect of the 2010 request had been procedurally correct and in compliance with her PSNI training and practices.

Response to Police Civilian 1

- 17.12. I have carefully considered the comments of Police Civilian 1 and reflected these, where applicable, in the relevant section of this public statement. I wish to place on record that I have no wish to cast doubt Civilian 1's competency and integrity.

Person J

- 17.13. Person J stated that steel cartridge cases discharged from VZ58 assault rifles were difficult to examine as they did not produce the relevant markings that softer brass cartridges did. He added that, since his retirement, there had been technological advances regarding the examination of cartridge cases but these were not available when he worked for the relevant specialist policing unit.
- 17.14. He stated that, during the relevant period, only two members of staff were available to conduct examinations. He accepted that mistakes were made but stated there was never any deliberate attempt to pervert the relevant police investigations.

- 17.15. Person J stated that the Browning 9mm pistol and homemade submachine were the only weapons deactivated in November 1989 because of time restraints and a lack of replacement parts. The relevant SB handlers also informed him that a recovery plan for the weapons was being discussed. He was later notified that the Browning 9mm pistol has been re-activated as the UDA/UFF had access to an armourer who possessed the relevant replacement parts.
- 17.16. He stated that had the theft of the Browning pistol been reported to his unit at the time, then its details would have been passed to the relevant staff members. The unit moved location in 1991 which may have led to some records being lost, mislaid, or destroyed. The period between the pistol having been in the possession of police in November in 1992 and its subsequent recovery in May 1992 may have contributed to its deactivation not being remembered.
- 17.17. He stated that any covert operations that he and his colleague were involved in would have been supervised by a senior police officer. He and his colleague were informed that these operations were lawful and were covered by the Official Secrets Act, which he had signed.
- 17.18. Person J concluded that he and his colleagues never knowingly, intentionally, or deliberately withheld information from investigators. He co-operated with an investigation led by Sir John Stevens in 2004 and shared all the information he held regarding the relevant Browning 9mm pistol and other weapons recovered in November 1989. In June 2006, the PPS informed him that he was not to be prosecuted for any offence relating to the Stevens investigation.

Response to Person J

- 17.19. I believe that the contents of this public statement accurately reflect the events surrounding the theft of the Browning 9mm pistol from Malone UDR Barracks on 31 January 1989. This includes the role played by the specialist policing unit where Person J worked.
- 17.20. While I acknowledge that working practices have changed regarding weapons examinations due to technological advances, I accept the findings of the independent ballistics expert commissioned by my Office. He concluded that the VZ58 assault rifle used in the Sean Graham Bookmakers attack was not the weapon used in the murders of Seamus Morris and Peter Dolan, and the attempted murder of Gerard Burns. These findings were confirmed by a later PSNI examination. The independent expert was unable to account for the initial findings of the specialist unit as it was his belief that the evidence was clear, even when utilising the technology available in 1992.

Summary

- 17.21. I have carefully considered the comments of the above former police officers and civilian staff and responded to them in writing. I have incorporated their comments, where I believe it appropriate, within the body of this public statement as procedural justice requires. I believe that the contents of this public statement accurately reflect this investigation of the families' complaints. The views I have expressed in relation to the conduct of police officers and other police staff within this public statement are based on evidence and other information, including intelligence, gathered during the course of this investigation.

17.22. I would like to thank the above individuals for bringing these matters to my attention. At every stage my investigators have sought to engage with former police officers and civilian staff in order to understand the environment within which they investigated serious crime. I accept that they faced significant challenges and pressures. I have also sought to obtain and review the relevant legislation, standards, and guidance that existed in order to better understand policing procedures and policies. I believe that this has resulted in a fair and impartial investigation, underpinned by evidence-based conclusions.

18.0

Conclusions

The Role of the Police Ombudsman

- 18.1. My role as Police Ombudsman is set out clearly in Part VII of the 1998 Act. In the Court of Appeal judgment in *Re Hawthorne and White's application*⁴⁵ the Court ruled that the Police Ombudsman had no role in adjudicating on a complaint of criminality or misconduct. Where there are allegations of criminality it is for the Public Prosecution Service (PPS) to determine whether the test for prosecution is met and for the court to decide whether a defendant is guilty. In this instance, there was no evidence to justify the report of any police officer for a decision as to prosecution. The main purpose of this public statement, therefore, is to address the matters raised by the families who have made complaints to my Office.
- 18.2. In accordance with my statutory functions, I am also obliged to consider the question of disciplinary proceedings. This would normally include a misconduct interview where the relevant officers would be asked to account for their decisions and actions after a misconduct caution. However, due to the relevant police officers being retired, a misconduct investigation was not possible. As stated by the Court of Appeal, it is not my role to determine whether or not police officers are guilty of misconduct. That is a matter for PSNI's Professional Standards Department (PSD) and the relevant police disciplinary panel in respect of serving police officers.

⁴⁵ *Re Hawthorne and White's Application for Judicial Review*. [2020] NICA 33.

18.3. The investigation of complaints about historical matters is challenging due to the passage of time and unavailability of relevant witnesses and documentation. In particular, the unavailability of some relevant RUC Special Branch (SB) records, in respect of informants and covert operations, has caused difficulties during this investigation. These relate to understanding the rationale for key decisions made, and actions taken, by RUC officers.

18.4. My investigators, however, gathered considerable evidence and other information during the course of this investigation. This included witness statements, police documentation, and other material within the public domain. I am unable to compel retired police officers to assist investigations in a witness capacity. However, a number of former police officers co-operated with this investigation. I am grateful for their assistance.

18.5. I am mindful of the context within which the original police investigations were conducted and the rules and standards that existed at the time of this series of attacks. At the time there was a less developed regulatory framework governing police practices, particularly relating to covert surveillance, use of intelligence, and the recruitment and management of informants. Since 1993, dramatic changes have taken place within the political environment, legal frameworks governing policing in Northern Ireland, and police accountability mechanisms. Those changes include:

- I. The Police Act 1997
- II. The Good Friday Agreement 1998;
- III. The Human Rights Act 1998;
- IV. The Patten Report 1999, which resulted in the creation of the PSNI;
- V. The Regulation of Investigatory Powers Act 2000

(repealed in part by the Investigatory Powers Act 2016), which broadly codified existing practices in relation to the use and conduct of informants;

- VI. The creation of the Office of the Police Ombudsman for Northern Ireland in 2000;
- VII. The creation of the Northern Ireland Policing Board (NIPB) in 2001;
- VIII. The formation of PSNI's Crime Operations Department in 2004, in relation to which police have stated, *'this department is led by a single Assistant Chief Constable thereby ensuring consistency, transparency, and accountability across all investigative and intelligence functions within PSNI.'*
- IX. The PSNI's Code of Ethics, launched in 2003 and amended in 2008;
- X. The Investigatory Powers Act 2016; and
- XI. The Covert Human Intelligence Source (Criminal Conduct) Act 2021.

18.6. A number of public complaints made to my predecessor resulted in Dr Maguire commencing a thematic investigation that examined police conduct in respect of a series of sectarian attacks carried out by the UDA/UFF in South Belfast between October 1990 and April 1994. I have also included an additional complaint within this investigation relating to a murder in January 1998, which was considered relevant. These attacks resulted in the murders of 12 individuals and the attempted murders of 10 others, including the attack at Sean Graham Bookmakers on 5 February 1992.

18.7. The relevant attacks were as follows:

- I. The attempted murder of Samuel Caskey on 9 October 1990;
- II. The murder of John O'Hara on 17 April 1991;
- III. The murder of Harry Conlon on 14 October 1991;
- IV. The murder of Aidan Wallace on 22 December 1991;
- V. The murders of Coleman Doherty, Jack Duffin, James Kennedy, Peter Magee, William McManus, and attempted murder of others on 5 February 1992;
- VI. The murder of Michael Gilbride on 4 November 1992;
- VII. The murder of Martin Moran. Mr Moran was shot on 23 October 1993 and died on 25 October 1993 as a result of his injuries;
- VIII. The murder of Theresa Clinton on 14 April 1994; and
- IX. The murder of Larry Brennan on 19 January 1998.

18.8. This public statement does not include the details of the investigation of police conduct relating to the murder of Mr John O'Hara on 17 April 1991. That is because criminal proceedings in relation to this murder are ongoing at the time of publication. A public statement in relation to the findings and conclusions about this matter will be issued at an appropriate time.

18.9. The public complaints made to my Office contained allegations of criminality and misconduct by members of the RUC. Although each family detailed specific allegations relating to the death of their loved ones, a number of similar themes consistently appeared throughout the complaints. These can be summarised as follows:

- I. That the RUC failed to recognise, and manage, the growing threat posed by the UDA/UFF in South Belfast against members of the nationalist and republican communities;
- II. That a number of firearms used in the relevant attacks were part of a loyalist arms importation that entered Northern Ireland in December 1987;
- III. That the RUC failed to conduct effective investigations of the murders and attempted murders referred to in this public statement;
- IV. That SB officers failed to disseminate all the available intelligence, thereby impeding the relevant police investigations;
- V. That SB officers acted in a manner designed to protect informants from arrest, prosecution, and conviction for serious criminality, including murder; and
- VI. That RUC officers '*colluded*' in a number of the attacks that resulted in 12 murders and a number of serious injuries to individuals.

18.10. This investigation also identified concerns relating to the deactivation, reactivation, and disposal of terrorist weapons by a specialist policing unit. I will also address these concerns.

The Police Ombudsman's Powers

18.11. I must act lawfully and fairly in the exercise of my functions as provided for under Part VII of the 1998 Act. The Court of Appeal in *re Hawthorne and White* has unanimously ruled on the powers of the Police Ombudsman under that legislation. This includes how the Ombudsman will address complaints generally and, more particularly, in complaints about the actions of retired RUC officers

concerning allegations of *collusion*. As stated by the Court of Appeal, my role is limited to acknowledging whether the matters ‘*uncovered*’ by an investigation are ‘*very largely*’ what the families claimed constituted ‘*collusive behaviour*.’ I refer in particular to paragraph 63 of that judgment:

‘Apart from the passages set out at paragraph 4.200, 9.9 and 9.40 the nine chapters of the substantive PS provide what the Ombudsman stated at paragraph 1.12, namely as comprehensive a narrative as possible. The determinations he made in the three offending paragraphs were not in our view decisions or determinations to which section 62 applied and overstepped the mark by amounting to findings of criminal offences by members of the police force. The remaining paragraphs were part of the narrative. We do, however, accept that in light of the families’ complaint in the context of Article 2 it would have been appropriate for the Ombudsman to acknowledge that the matters uncovered by him were very largely what the families claimed constituted collusive behaviour.’⁴⁶

- 18.12. In that context, I have considered the complaints, concerns, and questions raised by the families. Mindful of the limitation of my powers in relation to complaints of *collusion*, I have also considered the families allegations that RUC officers *colluded* in a number of the attacks outlined in this public statement.

⁴⁶ [2020] NICA 33

That the RUC failed to recognise, and manage, the growing threat posed by the UDA/UFF in South Belfast against members of the nationalist and republican communities.

General Threat to the Nationalist Community

- 18.13. In June 1991, the RUC received intelligence that Person Q wanted the UDA/UFF to target taxi drivers from the nationalist community, as he believed they were gathering intelligence to assist republican paramilitaries in targeting loyalists.
- 18.14. In October 1992, the RUC received further intelligence which stated that, due to the heightened security awareness of those individuals they believed to be active republicans, the UDA/UFF would focus on people such as taxi drivers and tradesmen.
- 18.15. Several of the victims of the attacks referenced in this public statement were taxi drivers or tradesmen:
- I. Mr Conlon was murdered on 14 October 1991 when working as a taxi driver for STS Taxis, Belfast;
 - II. Mr Gilbride, who was murdered on 4 November 1992, was a joiner by trade; and
 - III. Mr Brennan, who was murdered on 19 January 1998, was a taxi driver for Enterprise Taxis, Belfast.
- 18.16. After the murder of Mr Conlon in October 1991, the UDA/UFF claimed responsibility in a telephone call to the BBC, stating that they “*were not involved in a campaign against taxi drivers but wish to state that the taxi firms of STS, Brooke, and Apollo are openly involved with the republican movement in surveillance and intelligence work in loyalist areas of South Belfast.*”

- 18.17. On 23 October 1993, PIRA bombed Frizzell's Fish Shop on the Shankill Road, killing ten people. Less than 12 hours later, Mr Moran was shot at Vernon Court, Belfast, when delivering a Chinese takeaway. He subsequently died on 25 October 1993.
- 18.18. No paramilitary group claimed responsibility for the murder of Mr Moran. However, police believed that it may have been in retaliation for the Shankill Road bombing. In early November 1993, Person FFF was arrested for the murder of Mr Moran. When interviewed by police, he was consistently challenged that he had killed an innocent Catholic in retaliation for the Shankill Road bombing. Person FFF denied the allegation.
- 18.19. One of the challenges for the RUC during the period 1990-1998 was that loyalist paramilitaries were aware that active republicans had taken protective measures around their personal security. Loyalist paramilitaries were therefore targeting perceived 'soft' targets, such as nationalist taxi drivers and tradesmen.
- 18.20. This targeting of the wider nationalist population made it more difficult for police to identify threats to specific individuals.

The Management of Specific Threats to Individuals

- 18.21. The late Sir Desmond de Silva QC, in the Executive Summary of his 2012 report, when discussing the approach that the RUC took towards threat intelligence, stated, *'I am satisfied that there was a seriously disproportionate focus by the RUC on acting upon threat intelligence that related to individuals who were being targeted by republican paramilitary groups.'*
- 18.22. He believed that this was not driven by an inherently sectarian bias, but needed to be considered against a number of contextual considerations. *'The first is that the RUC SB were adverse to*

providing warnings to those (from any community) who were considered to be 'untrustworthy' and who might therefore, have decided to publicise the fact that there was a threat to their life. If this happened, the RUC SB feared that their intelligence 'source' would be endangered. By contrast, if members of the security forces were, for example, being targeted by PIRA, the RUC SB may have trusted them to receive warnings without publicising them.'

- 18.23. The RUC policy at the time in respect of warning individuals at risk was set out in Force Order 33/86 entitled, *'Threats against the Lives of Members of the Security forces, VIPs, or other Individuals'*. This stated that when a threat was received *'Local Special Branch (SB) concerned will inform the Sub-Divisional Commander (SDC) in whose area the subject resides or works and the SDC will take whatever action he wishes necessary. If the information received indicates that an attack on any person is imminent, the member receiving the information will immediately take all necessary action to inform the person at risk.'* On 3 July 1991, it was replaced by Force Order 60/91, which contained the same instructions as quoted above.
- 18.24. On a number of occasions, police received information concerning prior threats from loyalist paramilitaries to victims and survivors of some of the attacks outlined in this public statement.
- 18.25. This investigation has sought to establish what, if any, assessment was undertaken by police as to whether it was necessary to warn identified individuals of the existence of threats against them. I am of the view that, on a number of occasions, the receipt of specific threat intelligence engaged the State's obligations to protect the lives of its citizens as provided for by Article 2 of the European Convention on Human Rights (ECHR).

- 18.26. The security situation in Northern Ireland at this time caused police to receive a large amount of threat intelligence. They were, therefore, familiar with their responsibilities as outlined in the relevant RUC Force Orders. I am of the view that, given the available evidence and intelligence, the application of this Force Order was inconsistent in respect of a number of the victims referred to in this public statement.
- 18.27. As stated above, the relevant Force Order placed a responsibility on local police commanders to make informed and accountable decisions in respect of threat warnings. They were also reliant on intelligence concerning such threats being shared by RUC Special Branch. The lack of police records made it difficult for this investigation to identify individual officer responsibility and consideration of the threats.
- 18.28. In December 1988, police received intelligence in relation to a threat to Mr Caskey, which indicated that he was high on a list of UVF targets. In March 1989 and October 1989, police received further intelligence that Mr Caskey was being targeted by loyalist paramilitaries. This investigation has found no evidence that Mr Caskey was informed about this threat. There is no evidence of a risk assessment by the RUC in this respect, and there is no evidence that threat warnings were communicated to him by police at this time or subsequently.
- 18.29. This investigation established that police were in receipt of intelligence regarding the targeting of Mr Clinton from 4 August 1989 to the date of his wife's murder in April 1994. Mr Clinton was provided with threat warnings in 1989. However, despite emerging threats to his life and the safety of his family in early 1994, there is no evidence of a risk assessment by the RUC in this respect, and

no threat warnings were communicated to him in 1994.

18.30. I cannot find any legitimate explanation for this deliberate inaction by police which resulted in Mr Clinton not being alerted to the imminent threat which he, and by implication his family, faced prior to the attack on his home and the murder of his wife. The RUC's handling of the threat to Mr Clinton was not, in my view, consistent with RUC Force Order 60/91.

18.31. I can find no rationale for the failure of police to undertake threat assessments in respect of Mr Caskey and Mr Clinton. I am of the view that these failings were in contravention of this Force Order.

That a number of firearms used in the relevant attacks were part of a loyalist arms importation that entered Northern Ireland in December 1987.

Loyalist Arms Importation

18.32. The UDA/UFF's acquisition of weaponry from an arms importation in late 1987 equipped them, and other loyalist paramilitaries, with military grade firearms, including VZ58 assault rifles and semi-automatic pistols which they used in a number of sectarian attacks during the early 1990s.

18.33. Despite police receiving accurate intelligence from within the '*higher echelons*' of the UDA/UFF, mounting a significant covert surveillance operation against those involved in importing and distributing the weapons, recovering up to 60% of the weapons and making a number of arrests, at least 63 VZ58 assault rifles and 34 Browning pistols were secured by loyalist paramilitaries. These weapons were subsequently used to murder in excess of 80 people.

- 18.34. The VZ58 assault rifles in particular were used in multiple killings, including five murders by the UDA/UFF at Sean Graham Bookmakers on 5 February 1992, eight murders by the UDA/UFF at the Rising Sun Public House, Greysteel on 30 October 1993, and six murders by the UVF at the Heights Bar, Loughinisland on 18 June 1994.
- 18.35. Of considerable concern to me is the failure of police to conduct investigations of individuals responsible for the importation and distribution of these weapons, proportionate to the consequences of their actions, among whom were individuals who were, or subsequently became, informants.
- 18.36. Police received intelligence that Persons C and D, both members of Ulster Resistance, negotiated the movement of VZ58 rifles and Browning pistols not recovered by police to other loyalist paramilitaries, notably East Belfast UVF.
- 18.37. In Dr Maguire's public statement on complaints associated with the murders at Loughinisland, he described intelligence concerning East Belfast UVF's provision of the VZ58 rifle used in that attack. Similarly, intelligence held by police points to the VZ58 rifle used by the UDA/UFF to murder Coleman Doherty, Jack Duffin, James Kennedy, Peter Magee, and William McManus at Sean Graham Bookmakers having been supplied by, and returned to, loyalist paramilitaries in East Belfast.
- 18.38. The intelligence, which was provided to police after the attack at Sean Graham Bookmakers, described the sequence of events which led to Tullycarnet UDA/UFF being supplied with the VZ58 rifle by East Belfast UVF before later passing it to South Belfast UDA/UFF. The individuals involved were identified in the relevant intelligence. Person A, who was arrested at Tullycarnet in possession of the VZ58

rifle used at Sean Graham Bookmakers, initially confessed to also having held the weapon prior to the attack.

- 18.39. At that time SB had intelligence coverage of the UDA/UFF, which I believe ought to have been in a position to provide information about the movement of the VZ58 rifle in the days preceding the attack at Sean Graham Bookmakers. There are, however, no records of such information having been received by police.

That the RUC failed to conduct effective investigations of the murders and attempted murders referred to in this public statement.

The Attempted Murder of Samuel Caskey

- 18.40. This investigation has identified a number of failings relating to the RUC investigation of the attempted murder of Mr Caskey in October 1990. In particular, my investigators identified no evidence to establish whether police explored the possibility of CCTV which may have captured the assailant/s or the vehicle involved.
- 18.41. My investigators have been unable to find any records that a proposed line of enquiry relating to a vehicle suspected to have been used as the 'getaway car' was pursued by police investigating the attack. As a consequence, enquiries were not conducted with the last registered owner of the 'getaway car' nor with the person to whom they sold the vehicle, if anyone.
- 18.42. The car suspected of having been used by those responsible for the attack was forensically examined by NIFSL. My investigators found nothing to suggest that consideration was given to examining any of the items recovered from the car for Gunshot Discharge Residue (GDR).

18.43. In the event of any future arrests linked to Mr Caskey's attempted murder, it is likely that the suspect's clothing would have been submitted for GDR analysis. Therefore, I am of the view that this was a significant failure in the RUC forensic strategy.

The Murder of Harry Conlon

18.44. This investigation also identified RUC investigative failings relating to the murder of Mr Conlon. In particular, I have identified significant failings in the RUC's suspect and forensic strategies.

18.45. Person WW was arrested in December 1992 and interviewed a total of ten times over two days. Person WW was known to live close of the scene of the murder and information contained within the RUC policy file indicated that the relevant telephone call to STS Taxis was made from his house.

18.46. The relevant RUC policy file also notes that it was believed those responsible for the murder of Mr Conlon went to Person WW's house after the murder. It is, therefore, surprising that there was no search of Person WW's address.

18.47. Person X was arrested on the basis of intelligence and interviewed 10 times over two days. As with Person WW, there is no indication that his house was searched by police following his arrest.

18.48. The Deputy Senior Investigating Officer, Police Officer 7, documented his intention to arrest Person U due to intelligence which suggested he had boasted that he was the fare Mr Conlon picked up on the night of the murder. Person U was arrested on 14 January 1992 and interviewed in relation to the murder of Mr Wallace at the Devenish Arms Inn on 22 December 1991.

- 18.49. Police Officer 7 recorded a policy decision that Person U was not to be interviewed in relation to the murder of Mr Conlon as it was felt it better to concentrate on one murder at a time. There is no indication in any of the material viewed by my investigators that Person U was ever questioned in relation to the murder of Mr Conlon.
- 18.50. Following his arrest for the murder of Mr Wallace, a green wax jacket attributed to Person U was seized. The jacket was found to have blood and GDR on it. Although the blood was compared to that of Mr Wallace and the victims of the Devenish Arms Inn shooting, there was no evidence to suggest that it was compared against the blood of Mr Conlon. I am of the view that this was a significant failing in the RUC forensic strategy.
- 18.51. This investigation has been unable to establish whether all possible forensic opportunities were explored in relation to Mr Conlon's Vauxhall Carlton car. Although tape lifts were taken from its interior, the available records do not clarify whether they were ever examined for GDR.
- 18.52. There was no search of Person WWW's home in the investigation of Mr Conlon's murder. This is surprising, given that police had information that the gunmen went to his house after the shooting.

The Murder of Aidan Wallace

- 18.53. This investigation has established failings in the RUC forensic strategy relating to the getaway car used following the murder of Mr Wallace.
- 18.54. It was established that the gunmen fled the scene in a blue-coloured Vauxhall Cavalier. A blue Vauxhall Cavalier, VRM FXI 9407, was

found abandoned shortly after the murder at Locksley Place, Finaghy. Its engine was still running. It was established that the vehicle had been stolen earlier that day in Lisburn.

18.55. Although my investigators established that the vehicle was examined for fingerprints and that tape lifts were taken, I have not identified any evidence which would suggest that the vehicle was tested for GDR.

18.56. Police received an anonymous telephone call, where it was reported that the men who left the Vauxhall Cavalier at Finaghy then got into a gold-coloured Sierra car. It was established that one of the suspects, Person B, owned a gold-coloured Sierra, which he admitted in interview. This investigation has found no evidence that this car was ever seized or examined by police investigating Mr Wallace's murder. The seizure and examination of the Sierra could have provided valuable forensic evidence.

The Attack at Sean Graham Bookmakers

18.57. This investigation has established a delay in identifying and recovering the Ford Escort used in the attack. This resulted in a delayed forensic examination which may have impacted on potential evidential opportunities in respect of the vehicle.

18.58. The failure to check the blood found on a suspect's coat against the blood groups/DNA of the injured, may have resulted in a missed opportunity to link the suspect to the crime scene.

18.59. In late March 1992, police received intelligence that Person Z was responsible for removing the weapons from Bladon Drive. However, police wrongly assumed that Person Z had already been arrested and released. He did not, therefore, take part in an Identification Parade.

- 18.60. This investigation identified failings in the relevant arrest strategy. Police failed to arrest Person U. It is my view that there was sufficient evidence to justify the arrest of Person U and this represented a significant investigative failing.
- 18.61. Police did not seek to verify Person BB's alibi with staff who worked in the off-license which he stated that he attended. If this investigative line of enquiry had been pursued, police may have been able to test his alibi account during interview.

The Murder of Theresa Clinton

- 18.62. This investigation has established that police failed to question and test the alibi accounts provided by a number of suspects in the murder of Mrs Clinton.
- 18.63. Person Y and Person BBB were both arrested in relation to Mrs Clinton's murder. Person Y provided a detailed account of his movements, stating that he had been with Person BBB at a local bar at the time of the murder. At closing time, Person BBB had driven him to a friend's house, where Person Y spent the night.
- 18.64. Person BBB provided police with a similar account to Person Y. However, he stated that he left the bar at 11:00pm and drove home, adding that he did not know where Person Y went.
- 18.65. My investigators found no evidence that police obtained alibi statements from the individuals Persons Y and BBB identified in their accounts as having been in their company on the evening of the murder. There was also no evidence that police interviewed the individual Person Y claimed that he stayed the night with, after he had been dropped off by Person BBB.

- 18.66. Following the arrest of Person BBB, an Identification Parade was to take place with four significant witnesses invited to attend.
- 18.67. Person BBB consented to take part in the Identification Parade before three of the witnesses. However, he refused to take part when it was to be viewed by Witness 15. Witness 15 was then asked to take part in a confrontation parade with Person BBB. Witness 15 refused to do so, citing that he would be in fear of his life if he did.
- 18.68. A significant issue arose during the course of the Identification Parade, in that no protective screens were available. Personal details of the witnesses were also read out in front of the suspects and, following the Identification Parade, the witnesses were left alone and unsupervised in a room, allowing them to discuss the Parade.

Family Liaison

- 18.69. In the past, Family Liaison was significantly different to the current service provided to bereaved families. It was the responsibility of the SIO to engage with the family at an early stage of the investigation. However, after this there was no structured contact system in place unless a significant development occurred. No formal guidance or bespoke training existed. This changed following the murder of Stephen Lawrence in London on 22 April 1993. A public enquiry into Stephen's death highlighted significant failings in the police investigation, including the manner in which police communicated with the Lawrence family.
- 18.70. The enquiry, headed by Sir William MacPherson, stated '*That Police Services should ensure that at a local level there are readily available designated and trained Family Liaison Officers.*' It added that, where

possible, such officers should be dedicated primarily, if not exclusively, to the role.

- 18.71. The MacPherson recommendations laid the foundations for modern-day Family Liaison which lies at the core of any SIO's Investigation Strategy. The deployment of specialist trained officers to bereaved families is an important investigative tool as well as ensuring the SIO can communicate effectively with them and provide, as well as acquire, information, in a timely, accurate, and empathetic manner.

That RUC Special Branch officers failed to disseminate all the available intelligence, thereby impeding the relevant police investigations.

- 18.72. This investigation identified a number of occasions where RUC Special Branch officers were in receipt of intelligence which may have assisted the police investigation into the murder or attempted murder of victims detailed in this public statement.
- 18.73. In relation to the murder of Mr Conlon, this investigation has established that SB were in receipt of intelligence that the UDA/UFF were targeting nationalist taxi drivers. I have found no evidence that this intelligence was shared with police investigating Mr Conlon's murder. SB were also in receipt of intelligence in November 1991 which linked Persons Y, Z, AA, BB, and CC to the murder of Mr Conlon. However, there is no evidence that this intelligence was shared with police investigating Mr Conlon's murder.
- 18.74. In January 1992, SB received intelligence that Person FF may have been involved in the murder of Mr Wallace. Further intelligence was received in November 1994 that Persons U and W participated in the attack. This investigation found no evidence that either piece of

intelligence was shared with police investigating Mr Wallace's murder.

- 18.75. RUC Special Branch were aware of Person N's links to the movement of a Browning 9mm pistol which was used in the murder of Mr Wallace and the attack at Sean Graham Bookmakers. Intelligence received after the attack at Sean Graham Bookmakers reported that Person N had implied that he had been involved in the attack. There is no evidence that this intelligence was disseminated to the murder investigation team.
- 18.76. Other failures to disseminate intelligence by SB have been identified by this investigation in relation to the attack at Sean Graham Bookmakers. In particular, SB failed to notify the murder investigation team that Persons B and BB had been at a flat in Annadale immediately prior to the murder. Although SB shared intelligence implicating Person AA and another man with the SIO investigating the murders, the reference to Person AA and another individual's link to Annadale Flats was not provided.
- 18.77. This investigation has established that SB also failed to disseminate intelligence implicating Person BBB in the murder of Mr Gilbride.
- 18.78. Following the murder of Mr Brennan, SB were in receipt of intelligence that identified an individual as having allegedly assisted in targeting Mr Brennan. It added that the person allegedly responsible for his murder had gone to a 'safe house' following the shooting. This investigation has found no evidence that this intelligence was disseminated to the murder investigation team.
- 18.79. This pattern of non-dissemination of intelligence to the murder investigation teams by SB has, in my view, significantly impeded the ability to detect these crimes and bring the perpetrators to justice.

That RUC Special Branch officers acted in a manner designed to protect informants from arrest, prosecution, and conviction for serious criminality, including murder.

- 18.80. Through the use of informants, SB sought to obtain a more complete picture of the plans and activities of South Belfast UDA/UFF. This was essential, given the increase in loyalist paramilitary violence in the South Belfast area from 1990 onwards. Although one approach to a UDA/UFF member was rebuffed, others were successful in recruiting informants.
- 18.81. A number of these individuals were ideally placed to report on the activities of South Belfast UDA/UFF. The RUC's objective in seeking to increase the recruitment of informants in South Belfast was to ensure a good supply of actionable intelligence. This fuller intelligence picture would have allowed SB to act in a more focused and targeted manner against loyalist paramilitaries. The aim was to disrupt terrorist activities, secure arrests, and bring offenders to justice. This investigation has established that particularly in respect of the intelligence following the Sean Graham Bookmakers attack, that there was significant informant coverage in the South Belfast area. Police, however, failed to exploit this intelligence.
- 18.82. A number of former SB officers were interviewed by my investigators. They stated that they told informants not to '*break the law.*' However, handlers also accepted that the recruitment and management of informants was a '*grey*' area. Those handlers interviewed by my investigators pointed to no clear guidance and/or legislation to assist in the management of informants. It was clear that the involvement of an individual in terrorism made them suitable for potential recruitment and use.

18.83. Although Home Office Circulars provided guidance on the use and management of informants, many RUC officers felt that this guidance was inadequate to address the ongoing terrorist situation in Northern Ireland. However, the NIO Working Group issued guidelines setting out the responsibilities of both the informant and those police officers tasked with their management, which were adopted by the RUC in March 1992.

18.84. The NIO Working Group guidelines stated at paragraph 4 that, *'The Informant must clearly be instructed that his employment or continued employment as an Informant does not carry with it immunity from criminal prosecution. In particular, he should be warned that he should not expect to avoid criminal proceedings if he is detected committing or having committed any physical assaults, or attacks on property causing serious damage, or acts of extortion. Moreover, no police officer will counsel, incite or procure the commission of such a criminal offence. However, subject to Paragraph 5 below, an officer may employ a person as an Informant whom he believes to be engaged in criminal activities, provided that at the time of employing him he is satisfied that;*

- I. *The Informant is likely to be able to provide information concerning offences involving risk of death or injury to persons, serious damage to property, extortion, or offences connected with financing terrorism;*
- II. *The required information cannot readily be obtained by any other means; and*
- III. *The need for the information that may be obtained by the employment of that person as an Informant justifies his employment notwithstanding the criminal activities on which he may be engaged.*

The employment of an Informant believed to be engaged in criminal activity must be specifically authorised by an officer not below the rank of Assistant Chief Constable. It must be reviewed...'⁴⁷

- 18.85. Recruiting an informant who played a central role within a paramilitary organisation carried high risks which any corresponding handling strategy had to consider, and attempt to minimise. Risks had to be regularly reviewed and balanced against the potential 'rewards' to be gained from the recruitment of paramilitary informants.
- 18.86. This investigation has identified examples of intelligence obtained from informants that led to police recovering weapons and ammunition. These recoveries impacted upon the military effectiveness of South Belfast UDA/UFF and may have saved lives. Intelligence led in some instances to a number of arrests and convictions. These are examples of the 'rewards' to be gained through the effective recruitment and management of well-placed informants.
- 18.87. I note the concerns of the families and victims of the murders and attempted murders outlined in this public statement that police were protecting informants. This investigation has not identified evidence that a police officer committed a criminal offence by protecting an informant from arrest and/or prosecution. My investigators identified a number of occasions where informants were arrested and files of evidence submitted to the DPP in respect of their criminal activities.
- 18.88. RUC Special Branch in the Greater Belfast area achieved some success in infiltrating South Belfast UDA/UFF with informants. This permitted intelligence gathering that frustrated that organisation's

⁴⁷ The late Sir Desmond de Silva QC report, paragraph 4.55, p81.

activities in a number of instances. However, this investigation has identified the continued use by SB of a significant number of informants in South Belfast who were actively participating in serious criminality, including murder. I am critical of this practice, which I believe was in contravention of the NIO Working Group guidelines in existence at the time.

- 18.89. Notwithstanding the difficulties articulated by Sir Desmond de Silva in respect of the recruitment and handling of informants, including the failure of the UK Government to provide effective guidance, police were not absolved from compliance with the existing law and their obligations in respect of the protection of citizen's lives, as safeguarded by Article 2 of the European Convention on Human Rights.

The Deactivation of a Browning pistol

- 18.90. A 9mm Browning pistol (14306), on this occasion stolen from the Ulster Defence Regiment (UDR) by the UDA/UFF on 31 January 1989, and subsequently discharged during the attack at Sean Graham Bookmakers, was also used in the murder of Mr Wallace on 22 December 1991.
- 18.91. Following its theft, this Browning pistol was handed to members of SB by an informant in early November 1989. Special Branch had the firearm '*deactivated*' and returned it to the informant, Person I. During the late 1980s Person I acted as a 'Quartermaster' for the UDA/UFF in West Belfast.
- 18.92. Shortly after the Browning pistol and other weapons, some of which had not been '*deactivated*', were returned to Person I, police lost control of them.

- 18.93. Although a number of the firearms were recovered some days later, no arrest(s) were made. The Browning pistol remained in the hands of the UDA/UFF who reactivated the weapon and subsequently used it in the murders of Mr Wallace and five people at Sean Graham Bookmakers. I am of the view that police would have been aware of the capabilities of Person I, and others within the UDA/UFF, to reactivate firearms including the stolen Browning pistol.
- 18.94. The early failure of a series of police operations to recover the firearms can be attributed to Person I's unreliability and continued efforts by SB to conceal his involvement.
- 18.95. As observed by Sir Desmond de Silva in his report of the Patrick Finucane review, Person I was an unreliable informant. Suspicions of his previous involvement in murder should have alerted police of the need to thoroughly consider the justification for his recruitment as an informant and, thereafter maintain effective oversight of his continued use. Sir Desmond de Silva stated that the circumstances of Person I's recruitment as an informant were questionable. Equally I have concerns regarding police attempts to exercise effective oversight of his ongoing use.
- 18.96. Instead, the relationship between SB and Person I was characterised by a failure to confront the realities that he was withholding intelligence, reporting after the fact, and continuing his involvement in serious crime. This mismanagement of Person I can be attributed to the decision to entrust him with possession and distribution of firearms, thus endangering of the public.
- 18.97. The only records relating to the examination of the Browning 9mm pistol (14306), or other similar covert police operations, were '*unofficial notes*' made by those engaged in this activity, almost all of which are no longer available. Senior SB officers explained that

written records were not maintained due to the sensitivity of this area of work and the need to conceal the involvement of informants. However, I am of the view that this work could have been recorded and protected in a way that was consistent with other measures in place to protect informant identities. The high risks involved in returning lethal weapons – albeit deactivated – to informants demanded proper and careful authorisation and scrutiny. The absence of official records made scrutiny then, and now, impossible.

- 18.98. A number of senior SB officers gave conflicting accounts to the Stevens investigation as to the levels of authority required for these operations, particularly those involving the return of *'live'* firearms to paramilitaries. Some officers stated that the authority of 'headquarters' would have been required. The Head of Special Branch at the time stated that he had only cursory knowledge of these activities.
- 18.99. Similar allegations have been made concerning police actions in a number of other murders, unrelated to this investigation, one of which has been referred to my Office by the Chief Constable. I believe that the absence of documented policy, destruction of records, and inconsistency in accounts from SB senior management at the time resulted in opaque accountability.
- 18.100. The release of *'deactivated'* weapons to Person I, given his role as 'Quartermaster,' and his knowledge of weaponry, ought, in my view, to have been the subject of an in depth risk assessment by police. Considered objectively, the release of weapons to this individual, given his history of unreliability and the potential for those weapons to be reactivated, demonstrated a disregard for the safety of members of the public by police.

Absence of Deactivation Policy

- 18.101. This investigation has established that the actions of the specialised policing unit in *'deactivating'* weapons recovered from terrorists were not based on a documented policy outlining the roles and responsibilities of those involved in this process.
- 18.102. The absence of a written policy, together with the deliberate failure to retain records relating to this sensitive and controversial activity, is in my view indicative of a desire to avoid accountability. I am mindful of the criticism by Lord Stevens of the RUC's *'wilful failure to keep records [and] the absence of accountability'*. This investigation has identified these behaviours in the examination of the actions of this specialised policing unit. These failings are, in my view, wholly unacceptable given the risks attached to the return of lethal weapons to active terrorists.

Return of Weapons to Informants

- 18.103. SB returned weapons to Person I, which included *'deactivated'* and active firearms. The reason for the return of the latter, was to avoid compromising the source of the weapons. As an objective, independent observer, I find it inherently reckless to provide a live weapon to a terrorist in any circumstance. I consider the term *'reckless'* to denote conduct that is *'characterised by the creation of a substantial and unjustifiable risk of harm to others'*⁴⁸. It is my view that this was an unacceptable risk and is further evidence of SB prioritising the protection of informants over other vital interests, including the safety of the public. It is my view that this behaviour was collusive in nature.

⁴⁸ *'Reckless'*, B Garner, *Black's Law Dictionary*, 11th Edition

The Disposal of Weapons

- 18.104. The VZ58 rifle and 9mm Browning pistol used in the attack at Sean Graham Bookmakers was given by police to the Imperial War Museum (IWM) and the military respectively. This should not have occurred. These decisions, which led to the VZ58 rifle being placed on public display at the IWM, have understandably caused considerable distress to victims and survivors and suspicion as to the manner in which this weapon was disposed of by police.
- 18.105. This investigation has also identified the routine disposal of firearms recovered in relation to murders in an inappropriate manner. These weapons should have been retained by police as exhibits.

The Reactivation of Weapons

- 18.106. Firearms used in the murders of Mr Moran on 23 October 1993 and Mrs Clinton on 14 April 1994 had previously been commercially deactivated. However, loyalist paramilitaries developed the means to acquire and reactivate these weapons. SB failed to disseminate intelligence concerning these activities, including the identities of those involved, as a result of which there were no related police investigations, including enquiries specific to the murders of Mr Moran and Mrs Clinton.

Destruction of Records relating to Pre Incident Intelligence

- 18.107. In addition to intelligence that police received in late January 1992 concerning discussions within the UDA/UFF and UVF about retaliation for the murders at Teebane, my investigation identified a number of other noteworthy events prior to the attack at Sean Graham Bookmakers.

- 18.108. On 4 February 1992 Person N, a senior member of West Belfast UDA/UFF, was observed meeting a number of unidentified men. They were in a car linked to a senior member of South Belfast UDA/UFF. A police surveillance unit took photographs of this meeting.
- 18.109. Other intelligence at the time indicated that Person N was *'moving'* a 9mm pistol. Subsequent intelligence received by police reflected that he had *'housed'* the men responsible for the murders at Sean Graham Bookmakers in West Belfast both prior to, and following, the attack. He also boasted of an undefined role in the attack. My investigators sought to gather more information about the nature of the relevant surveillance operation.
- 18.110. Other than to determine that related records, including the photographs, are no longer available, these efforts have proven unsuccessful. This investigation found no evidence that police investigating the attack at Sean Graham Bookmakers were alerted to the meeting on 4 February 1992.
- 18.111. This investigation has established that a police vehicle checkpoint was in position on the lower Ormeau Road, one quarter of a mile south of Sean Graham Bookmakers, at the time of the attack.
- 18.112. Mindful that police had general intelligence concerning planning for an attack by the UDA/UFF, potentially targeting the nationalist community in retaliation for Teebane, I am of the view that that the heightened police activity, including the surveillance operation, was likely to have been a response to the threat of such an attack. However, I have not identified evidence that police had intelligence or anticipated that such an attack would take place at, or in close proximity to, the branch of Sean Graham Bookmakers at which the murders occurred on 5 February 1992.

The Use of Informants

- 18.113. That police did not receive pre-incident information concerning plans for the attack at Sean Graham Bookmakers, nor for other attacks which this investigation has examined, has led me to consider the RUC's use of informants in gathering intelligence about the activities of South Belfast UDA/UFF. In discussing these issues I am constrained by the principle of 'Neither Confirming Nor Denying' (NCND) any person is, or has been, an informant unless, in accordance with established principles, exceptional and compelling circumstances exist that justifies a departure from the policy.
- 18.114. I am of the view that the absence of pre-incident intelligence prior to the Sean Graham Bookmakers attack indicated an intelligence failure on the part of RUC Special Branch. This occurred despite the scale of information being received by SB on the murders detailed in this public statement. It was during a period of heightened loyalist terrorist attacks, when intelligence indicated that the UDA/UFF were planning a retaliation for the Teebane murders.
- 18.115. Former SB handlers confirmed to my investigators that, prior to February 1992, police had poor intelligence coverage of the UDA/UFF in South Belfast. My investigation has identified, however, that it is more likely to have been the quality of intelligence being received from the numerous informants throughout the UDA/UFF and elsewhere, and the manner in which they were recruited and managed, that was the larger concern.
- 18.116. A theme that has emerged from investigations conducted by this office is the objective of police to recruit informants within the UDA/UFF from '*top to bottom.*' Consistent with the conduct of the relationship police had with Person I, this strategy did not place an

emphasis on the justification for employing certain individuals as informants.

18.117. There should be a direct correlation between the risks and rewards inherent in the recruitment and use of any informant. Consideration of the risks associated with the particular individual and their employment should be proportionate to the potential intelligence rewards that are anticipated. If recruitment can be justified, ongoing management of the informant should include oversight of the relationship, in a manner which is proportionate to the continuing risks posed by, or to, the informant. In the context of the 'Troubles', the '*rewards*' should have been the provision of information that prevented terrorist attacks, thereby preventing loss of life and/or serious injury to the public and destruction of property, and which led to the arrest and conviction of offenders and disruption of paramilitary organisations and their activities.

18.118. The efforts of Special Branch to address the intelligence vacuum they perceived to exist in relation to South Belfast UDA/UFF led them to employ, or seek to recruit, informants who posed especially '*high risks*' due to their likely involvement in previous murders. There is, however, no evidence of the exhaustive considerations that ought to have been given to the recruitment of such individuals, nor, as it transpired, did ongoing management of these informants identify concerns regarding their suitability for continued use.

18.119. In a document written by SB recommending the recruitment of an individual associated with South Belfast UDA/UFF, intelligence described his role in numerous terrorist attacks, including a '*prominent role*' in multiple murders. In another document, police stated they were satisfied that the individual '*played an integral part in the planning, preparation and execution*' of the same murders. This investigation found no evidence that the risks associated with the

proposed recruitment of that person were considered by police as part of their justification process. Instead, it appears this background in numerous murders was the attraction for his recruitment as an informant.

- 18.120. There are allegations that SB exercised influence over murder investigations in order to *'protect'* or facilitate the recruitment of informants who were suspects.

That RUC officers *colluded* in a number of the attacks that resulted in 12 murders and a number of serious injuries to individuals.

Complaints of Collusion

- 18.121. The families alleged that there was *collusion*' in respect of police actions relating to a number of the attacks. In Chapter 3 of this public statement, I carefully considered the various definitions of *collusion* offered by the then Lady Justice Keegan, Lord Stevens, Judge Peter Cory, Judge Peter Smithwick, Sir Desmond de Silva, and a number of former Police Ombudsmen. While these definitions are informative, I acknowledge that there is no universally agreed definition of *collusion*. I have, however, identified a number of common features which I summarise as follows:

- I. Collusion is context and fact specific;
- II. It must be evidenced but is often difficult to establish;
- III. Collusion can be a wilful act or omission;
- IV. It can be active or passive (tacit). Active collusion involves deliberate acts and decisions. Passive or tacit collusion involves turning a blind eye, or letting things happen without interference;
- V. Collusion by its nature involves an improper or ethical

motive;

- VI. Collusion, if proven, can constitute criminality or improper conduct (amounting to a breach of the ethical Code of the relevant profession); and
- VII. Corrupt behaviour may constitute collusion.

18.122. I am mindful of the comments made by Judge Cory in his report into the murder of Robert Hamill. He stated that the public must have confidence in the police. Police must act judiciously and always strive to apply the law fairly, evenly, and without bias or discrimination. Their role is to protect and serve the entire community.

18.122. I am also mindful of the judgment of the then Lady Justice Keegan⁴⁹ at paragraph 44 of *Re Hawthorne and White's Application*, where she stated:

*'Collusion is another feature of the historical landscape. Whilst this term denotes sinister connections involving State actors it is not a criminal offence in itself. It has also been notoriously difficult to achieve a universal, accepted definition. In this case the definition adopted was that of Judge Smithwick which frames the concept in the broadest sense emphasising that it includes legal and moral responsibility.'*⁵⁰

18.123. I have taken into account the limitation on my powers to decide on a complaint of *collusion* (as outlined in the Court of Appeal judgment). I am of the view that, having considered all the circumstances in this case, my investigation into these public complaints has identified the following collusive behaviours on the part of police.

⁴⁹ Now The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland

⁵⁰ [2018] NIQB 94, at para 44

A number of the weapons used in this series of attacks were part of a 1987 loyalist arms importation.

- 18.124. I am of the view that the weapon used in the attack at Sean Graham Bookmakers originated from a consignment of weapons imported into Northern Ireland by loyalist paramilitaries in December 1987.
- 18.125. Although police recovered a large number of the imported weapons, a quantity were obtained by loyalist paramilitaries.
- 18.126. This distribution of weapons from the arms importation to loyalist paramilitaries occurred because of intelligence gaps and failings in the original police operation put in place at the time to intercept the importation and arrest those involved, as detailed in my predecessor, Dr Maguire's public statement into the attack at Loughinisland. I consider that Dr Maguire's statement is a public record of the events leading to the murders at Loughinisland, including the loyalist arms importation.
- 18.127. The interception of the weapons imported in December 1987 may not have prevented the attacks that are the subject of this public statement.
- 18.128. The investigation by my predecessor, Dr Maguire, into the Loughinisland attack concluded that there was a lack of an investigative effort to bring those responsible for the importation to justice. Detectives investigating seizures of weapons linked to the importation were not provided with relevant intelligence. I refer to Dr Maguire's findings that the failure to do so directly impeded subsequent police investigations seeking to bring those responsible for the weapons importation to justice.

The failure to issue threat warnings in compliance with RUC Force Order 60/91.

- 18.129. Pre-incident intelligence in relation to the murder of Mrs Clinton described an unambiguous threat against her husband, which was real and imminent. I have found no evidence that police made Mr Clinton aware of the heightened threat. The same applied to intelligence detailing a threat against Mr Caskey.
- 18.130. This investigation has been unable to establish why Mr Clinton and Mr Caskey were not warned of the increased risk to their personal safety and that of their families in accordance with RUC Force Order 60/91, which applied at the time.
- 18.131. Police have indicated that Mr Clinton was aware of the threat to his safety and that they had previously warned him (from 1989 onwards) of this threat from loyalist paramilitaries. There is no rationale for the failure to warn either Mr Caskey or Mr Clinton of the real and imminent threats to their safety. I am of the view that this serious omission constitutes collusive behaviour.

The Recruitment and Management of Informants by RUC Special Branch.

- 18.132. Central to the complaints of the families, victims, and survivors of the attacks outlined in this public statement was the RUC use of informants linked to loyalist paramilitary organisations during the period 1990-1998. I acknowledge that the use of informants is an established policing tactic aimed at obtaining information in order to infiltrate terrorist organisations with a view to disrupting their activities.

- 18.133. This investigation has established that a number of informants within South Belfast UDA/UFF were being actively tasked by SB despite there being evidence linking them to serious sectarian crimes, including murder. This investigation, and others conducted by my office, have identified eight UDA/UFF members who were linked, through intelligence, to the murders and attempted murders of 27 people. A number of these are referred to in this public statement. All eight individuals were police informants either at the time, or subsequent to, these attacks.
- 18.134. The advice given to handlers generally was that informants must not *'break the law.'* I have outlined in Chapter 7 of this public statement the relevant guidelines available to Special Branch in relation to the recruitment and use of informants involved in criminality.
- 18.135. This investigation has identified occasions where the SB strategy to recruit UDA/UFF informants and their use, led to the recovery of weapons and subsequent arrests and convictions of loyalist paramilitaries. However, this investigation has also identified occasions where the continued use of informants could not be justified because of the questionable quality of intelligence they provided. Further, these informants were retained and were managed by SB, despite intelligence linking them to serious crime, including murder.
- 18.136. The use of these informants by SB during this period causes me concern. In one instance, an informant commenced their involvement in serious crime, including murder, following their recruitment. There was no evidence of effective oversight and control by SB that would have assessed this individual's reliability and the risks associated with their continued use. Handlers ought to have been provided with information to enable them to assess the reliability of the informant's intelligence. However, they were also required to probe, question,

and assess the information provided to them by the informant in order to justify their continued use.

18.137. The extent of the use of informants in South Belfast during this period has caused me concern in light of the absence of the effective control and oversight that was necessary to justify the continuance of the relationship with the informant. I am of the view, that the absence of controls, combined with the absence of records relating to these informants constitutes collusive behaviour.

Deliberate Destruction of Records

18.138. Records of intelligence on which the RUC's Tasking and Co-ordinating Group relied in directing covert investigatory measures following the attack at Sean Graham Bookmakers, were largely unavailable to my investigators. In respect of events that followed the attack at Sean Graham Bookmakers, the decision to destroy important relevant records is inexplicable. As a consequence, there are no records of the decision(s) not to recover the weapons and other items likely to have been used in the attack, some of which were never recovered, or not recovered until months later. Similarly, there are no records of the decision not to make early arrests of those in possession of these items. The recovery of this material and these arrests could well have proven key to the detection of these crimes.

18.139. A further example of the destruction of records pertaining to covert investigatory measures was present in the surveillance of Person N less than 24 hours before the attack at Sean Graham Bookmakers. Police had taken photographs of Person N meeting with four unidentified men who were travelling in a car linked to a leading member of South Belfast UDA/UFF. On the same day, police also received information that Person N was moving a 9mm Browning pistol. There is no evidence that the photographs or the intelligence

were shared with the police investigation team and the photographs are no longer available.

18.140. The specialised policing unit responsible for deactivating a 9mm Browning pistol (14306) before it was returned to Person I did not retain records of this action. Evidence gathered by investigations conducted by both Lord Stevens and my Office indicates that, with the exception of an unofficial notebook maintained by Person J, no records were made of this activity nor of its authorisation.

18.141. The systematic destruction of records generated by:

- I. The RUC's Tasking and Co-ordinating Group;
- II. The RUC's use of covert investigatory measures; and
- III. The specialised policing unit's activity in returning weapons to paramilitaries, some deactivated and others not

had the effect of obstructing not only some of the murder investigations but also examination of police accountability.

Overall Conclusion

18.142. I am of the view, given the available evidence and information, that the concerns of the families, victims, and survivors are legitimate and justified in the following respects:

- I. A weapon used in the attack at Sean Graham Bookmakers was part of a loyalist arms importation that entered Northern Ireland in December 1987;
- II. The emerging threat posed by South Belfast UDA/UFF to the nationalist community in South Belfast was not adequately addressed by police;

- III. Although police were not in receipt of intelligence which could have prevented the attacks referenced in this public statement, they were in receipt of threat information that was not shared with Mr Caskey and Mr Clinton;
- IV. Special Branch failed to share relevant intelligence which would have assisted the murder investigation teams examining the circumstances of these attacks. In some instances, intelligence sharing was delayed. The impact of these failings was to undermine the effectiveness of these investigations and, in turn, impeded the ability of police to bring the perpetrators of these serious crimes to justice;
- V. Investigative failings including inadequate forensic, suspect, and arrest strategies; failures to adequately test and probe evidence; and a failed Identification Parade have been identified in relation to specific cases;
- VI. Inadequate supervision and control by RUC Special Branch of informants, and the continued use of informants who were actively involved in serious criminality, including murder;
- VII. The deactivation of a weapon used in attacks referenced in this public statement; and
- VIII. The disposal by police of the VZ58 rifle used in the Sean Graham Bookmaker attack to the Imperial War Museum.

Complaints of Collusion

18.143. I have taken into account the limitations on my powers to decide on a complaint of '*collusion*' as outlined in the Court of Appeal judgment in *Re Hawthorne and White*. I am of the view, based on all available evidence and information, that the following conduct constitutes what the Court refer to as '*collusive behaviours*':

- I. Intelligence and surveillance failings identified by Dr Maguire in his report on the Loughisland attack;

- II. The failure to warn and conduct a threat assessment in respect of threats to the life of Mr Caskey;
- III. The failure to warn Mr Clinton of the real and imminent threat to his and his family's safety in contravention of the RUC Force Order;
- IV. The failure to retain records and the deliberate destruction of files in relation to the authorisation and implementation of covert investigatory measures following the attack at Sean Graham Bookmakers;
- V. The failure to maintain records of the deactivation of weapons were indicative of a desire to avoid accountability for these sensitive and contentious activities;
- VI. The failure of police to exploit all evidential opportunities for example the failure to recover significant evidential material used in the attack at Sean Graham Bookmakers and to make early arrests;
- VII. Failures by Special Branch to disseminate intelligence to the murder investigation teams which could have been exploited;
- VIII. Absence of control and oversight in the recruitment and management of informants;
- IX. The continued, unjustifiable use by Special Branch of informant(s) involved in serious criminality, including murder, in contravention of NIO Working Group Guidelines; and
- X. The passive '*turning a blind eye*' to the activities of informants in respect of whom police had intelligence that they were involved in serious criminal activity, including murder.

18.144. This investigation has found no evidence that police were in possession of intelligence which if acted on, could have prevented any of the attacks detailed in this public statement.

18.145. The complainants were also concerned that informants were protected from arrest and conviction. I have found no evidence of this during the course of this investigation.

18.146. I appreciate the patience and co-operation of the families, victims, and survivors and their representatives during of protracted, complex, and sensitive investigation.

Marie Anderson

Police Ombudsman for Northern Ireland

8 February 2022

ANNEX A:

The Murders at Sean Graham Bookmakers Public Complaints

1.	<p>The families of those murdered at Sean Graham Bookmakers made public complaints to my Office. These complaints contained a number of allegations, questions, and concerns in respect of police actions. These can be summarised as follows:</p> <ul style="list-style-type: none">I. Scene Management;II. The Weapons;III. The Vehicles;IV. Forensic Strategy;V. General Evidence Gathering;VI. Family Contact;VII. Suspect Strategy;VIII. Witness Strategy; andIX. Intelligence.
2.	<p>The families raised other issues in respect of the weapons used in this attack. This public statement includes a detailed commentary on matters relating to the VZ58 rifle and the 9mm Browning pistol that were used. I am of the view, therefore, that many of the allegations, questions, and concerns raised by the families regarding these weapons have been addressed in the main body of this public statement. Therefore, it is not my intention to re-visit the history of these weapons in full again in this Annex.</p>
3.	<ul style="list-style-type: none">I. Whether the original RUC investigation was thorough, prompt, and effective; and

	<p>II. Whether police pursued all lines of enquiry.</p> <p>The families also wished to complain that the RUC investigation failed to discharge the duties of the state in accordance with Article 2 of the European Convention on Human Rights (ECHR), as incorporated by Schedule I of the Human Rights Act 1998.</p>
	<p>Scene Management</p>
	<p><i>The families alleged that the RUC immediately surrendered primacy of the crime scene investigation to two members of the British Army's Weapons Intelligence Section (WIS).</i></p>
4.	<p>My investigators traced and recorded statements from the two members of the military who attended the scene, Witness 18 and Witness 19. Witness 18 stated that his actions were 'normal tasking' and he touched nothing of forensic interest. Witness 19 stated that he attended the scene, took a series of photographs, and recorded other relevant information. Following this, they submitted their report to the RUC investigation team.</p>
5.	<p>Witness 18 stated that '<i>In respect of control of the crime scene, I can confirm that police always had primacy and control of the scene at Sean Grahams. We, the RMP (Royal Military Police), did not take primacy of any crime scene, including any crime scenes on military establishments, it was always the RUC. I can categorically assure you that I had no control at Grahams crime scene and therefore had no control of who was allowed to enter the scene.</i>'</p>
6.	<p>Witness 19 added that '<i>We would always liaise with the investigators, scene of crime, or military at the scenes. The police always had primacy at the scene. The only exception would be if there was the suspicion of an unexploded device, the ATO (Ammunitions Technical Officer) would</i></p>

	<i>have to declare the area safe first. Once this was done police took charge of the scene.'</i>
7.	Witness 18 and Witness 19 were recorded as having attended the scene between 3.25pm-4.30pm. There is no indication in any documentation that primacy of the scene was ever relinquished by police to the military. All exhibits at the scene were recovered by NIFSL.
8.	My investigators also raised this allegation with Police Officer 10. He stated that <i>'At that time it was a matter of agreed police and army policy that army personnel would attend all incidents of shooting, explosives or bombing incidents and there was no need to specifically call them to a crime scene. However control and primacy of the crime scene lay with the police and specifically in relation to the Sean Graham murders the scene was never 'handed over' to the army.'</i>
9.	Police Officer 8 added that <i>'I don't recall military personnel attending and it certainly wouldn't have been surrendered to them. That never happened.'</i>
	<i>The families wished to know who tasked the relevant military personnel that day, and why?</i>
10.	This investigation reviewed the relevant RUC documentation but this did not specify who tasked the military to attend the scene. Witness 18 informed my investigators that <i>'I would have attended the scene as a matter of agreed police and army protocol, and would have been directed there, possibly by our watch keeper at Thiepval Barracks, who would have received a radio transmission from police that shots had been fired or there was an explosion, or both.'</i> Witness 19 could not recall how they were tasked but added that they would have responded from their Lisburn office.

	<i>The families wished to know what was the brief of the military personnel who attended the scene.</i>
11.	Witness 18 stated that <i>'Our job was to identify, from casings etc left at the scene, what weapons had been used in the shootings e.g. machine guns, hand weapons etc. We did not touch anything which would compromise any forensic opportunities. Any casings and bullet heads we looked at, had been seized and bagged by police and SOCO.'</i>
12.	Witness 19 added that <i>'the Section was used to gather and disseminate intelligence on terrorist incidents i.e. shootings, arm finds, or explosions. WIS would liaise with investigators and/or military at the scenes of these incidents to establish what had occurred and then submit a report to senior officers.'</i>
	The families asked what information were they, and principally their superiors, in possession of in the immediate aftermath of the attack that warranted their attention and attendance? The concern being, immediate knowledge that a British Army weapon had been used required their attendance. Was this an exercise to determine as early as possible if the fact that the weapon directly provided by security forces to the killers had been used and the potential for this to lead back to their handler/s?
13.	This investigation has established that it was standard practice for members of the military to attend shooting incidents. They attended all the incidents referred to in this public statement. I am of the view that their attendance at this scene was nothing other than standard practice. This investigation has not identified any evidence, or other information, that the security forces knew that a weapon of military origin had been used in the attack, prior to their attendance at the scene. Witness 19 stated that <i>'We were never briefed or tasked to attend the scene to establish if any British military weapons had been used in the attack.'</i>

	<i>Neither am I aware if any of the weapons used in the attack originated from the British military.'</i>
14.	Two weapons were used in the attack at Sean Graham Bookmakers, a VZ58 assault rifle (R17155) and a Browning 9mm pistol (14306). The origins, use, and recovery of these weapons have have been addressed in the main body of this public statement. Therefore, it is not my intention to re-visit the history of these weapons in full again in this Annex.
	The Weapons
	The Browning 9mm Pistol (14306)
	<p>The families raised various issues regarding this weapon which are summarised as follows:</p> <ol style="list-style-type: none"> <i>I. The De Silva report was explicit that Person 2 was implored and encouraged by Person 3 to steal weapons from Malone Road UDR Barracks, which resulted in the theft of the Browning 9mm. The families would assert that there is evidence of state collusion in these murders, by means of direct RUC involvement (Person 3), and the involvement of RUC agents (Person 2). It is a fact that Person 3 advised Person 2 to steal the Browning 9mm from Malone Road UDR Barracks;</i> <i>II. How many of the five firearms handed to police by Person 4 were returned to him?</i> <i>III. Had the firearms been deactivated or not?</i> <i>IV. Was the person who returned the firearms a Special Branch officer?</i> <i>V. Why was the Browning 9mm pistol returned to the UDA via Person 4?</i> <i>VI. What was done by police to recover the firearms?</i> <i>VII. Who authorised the return of firearms to Person 4?</i>

- VIII. The families seek an explanation for the conduct of the police officer who returned the Browning 9mm to the UDA;**
- IX. Was the 9mm Browning pistol ever recovered from an agent? If it was recovered, why was no one charged with possession of the said pistol?**
- X. If the weapon was not actually 'jarred', why was the weapon returned to the UDA?**
- XI. Where was the 9mm Browning tested / 'jarred'? Was it done at TSG or at FSNI? Was there a policy in this regard? How long was it held? Who had it? Where was it stored?**
- XII. What led the PPS to state that 'steps had been taken by police to deactivate the Browning before it was returned to Person 4'?**
- XIII. Importantly, had the British Army WIS also handled the 9mm Browning pistol?**
- XIV. There were another four weapons handed to SB at this time by Person 4, and the families seek disclosure of the forensic/ballistic history of these weapons;**
- XV. What was done by the RUC to trail this weapon after it was returned to the UDA?**
- XVI. The families requested that the Browning 9mm pistol be located in order to carry out a forensic examination of the weapon to see exactly how the weapon was deactivated and subsequently reactivated. Has it been forensically tested to enquire as to whether it was 'jarred' by SB?**
- XVII. Why was the Browning 9mm pistol not returned to the police after the murder of Aidan Wallace at the Devenish Public House on the 22 December 1991? A ballistic examination would have identified the history of the weapon and the recovery of this weapon could have prevented the massacre at Sean Graham Bookmakers? The police knew**

	<p><i>who they returned it to, and of its subsequent use, so why was it not retrieved?</i></p> <p>XVIII. The families expect and trust that the Police Ombudsman should report as to what actions the RUC took once the ballistics history of the Browning 9mm was known to them after the murder of Aidan Wallace;</p> <p>XIX. Once Aidan Wallace was killed this was a clear case of preventability. The families contend that the RUC had Article 2 responsibilities with regards to this weapon, after the murder of Aidan Wallace;</p> <p>XX. Was there an exhibits continuity register retained?</p> <p>XXI. The Browning 9mm pistol was stolen by Person 2 from Malone UDR Barracks on 31st January 1989. He was subsequently convicted of the theft of this weapon in September 2004 and sentenced to five years imprisonment. A letter to the families from the PPS on 25 June 2007, at paragraphs 24 and 25, set out the reasons as to no prosecution; however this is prior to the de Silva report. The families respectfully submit that the Police Ombudsman should have full access to the de Silva and Stevens archives, to consider a resubmission of the case to the PPS for prosecution as the June 2007 decision not to prosecute did not account for evidence published in de Silva.</p>
15.	I am of the view that Chapter 5 of this public statement addresses all of the above allegations, questions, and concerns regarding this weapon.
	Who misled the HET into considering that the interview notes of Person 5 and Person 6 were destroyed, when in fact they were recoverable from PRONI?
16.	It is not within the remit of my Office to investigate matters pertaining to PSNI's Historical Enquiries Team (HET). My investigators reviewed

	<p>relevant documentation retained by the Public Records Office of Northern Ireland (PRONI). These enquiries revealed that the documentation held by PRONI was the same as that contained within the original RUC investigation papers. RUC interviews of Person 5 and Person 6 were recorded in a question and answer format within the evidential statements of the police officers who interviewed them. These statements confirmed that both individuals were questioned by police about the Sean Graham Bookmakers attack.</p>
	<p>The families stated that Person 4 was prosecuted for handing over the weapon that killed Pat Finucane, yet the police officer who handed the weapon (Browning 9mm used in the murder of Aidan Wallace and the murders at Sean Graham Bookmakers) to Person 4 was not prosecuted. Although the PPS letter referred to the reasons for non-prosecution, the Police Ombudsman should still investigate and consider a referral back to the PPS.</p>
17.	<p>This matter was investigated by Lord Stevens and a file of evidence submitted to the Director of Public Prosecutions. My investigators found no evidence or intelligence that had not been previously available to the Stevens investigation. As detailed in Chapter 5 of this public statement the Police Ombudsman is not permitted by legislation to re-investigate a matter where a prior criminal investigation has taken place, unless new evidence has emerged that was not available at the time of the original investigation.</p>
	<p>The two weapons used in the Sean Graham Bookmakers attack had previously been under state supervision and control and, in the case of the Browning pistol, the RUC. Therefore, the attack could have been prevented.</p>
18.	<p>Both the 1987 loyalist arms importation and the deactivation of the 9mm Browning are highly significant events that are dealt with in detail in the body of this public statement, where I conclude that the attack was not</p>

	<p>preventable. However I cannot conclude that, if neither event had occurred, the attack could have been prevented.</p>
	<p>The VZ48 assault rifle (R17155)</p>
	<p>The families raised various issues regarding this weapon which are summarised as follows:</p> <ol style="list-style-type: none"> <li data-bbox="427 611 1398 1193"> <p>I. The families requested that the Police Ombudsman investigated the circumstances whereby the VZ58 rifle arrived in Northern Ireland. There is a well-documented narrative that this weapon was part of a consignment from South Africa, overseen by the Ministry of Defence (MOD) and one of their informants, Person 7. It is respectfully submitted that this is a matter which falls within the remit of the Police Ombudsman by virtue of the fact that the RUC was represented on the relevant Tasking Co-coordinating Group (TCG) that was aware of the weapons importation plan;</p> <li data-bbox="427 1216 1398 1686"> <p>II. The VZ58 rifle was used in the murders of Seamus Morris and Peter Dolan in North Belfast on 8 August 1988, carried out by the UVF. This attack demonstrated cross use by the UVF-UDA/UFF of weaponry consonant with the cross over dual use of Brian Nelson. Was anybody convicted of these murders? Were the bullets that were removed from the deceased retained for cross reference with the Sean Graham Bookmakers attack? Were the casings retained?</p> <li data-bbox="427 1709 1398 1955"> <p>III. What was the intelligence that led the HET to state that the VZ58 rifle used in the Morris and Dolan murders was the same one as was used in the Sean Graham Bookmakers attack? How were the RUC not able to evidentially and forensically connect the two incidents?</p>

	<p>IV. The families seek to complain that the weapon was destroyed in circumstances when no individual had been prosecuted for any of the above attacks; and</p> <p>V. Where was the VZ58 rifle being held when it was destroyed?</p>
19.	<p>I am of the view that the main body of this public statement addresses all of the above allegations, questions, and concerns regarding this weapon. This includes details of the 1987 loyalist arms importation, how the VZ58 rifle came to be linked to the Morris and Dolan murders, issues surrounding its disposal, and an independent forensic examination commissioned by my Office.</p>
	<p>The families wish to know who authorised the destruction of the VZ58 rifle, why, and if this person had any connection to Special Branch. They also wish to know if this person had any connection to the deactivation of the Browning 9mm pistol.</p>
20.	<p>My investigators established that Police Officer 25 authorised the disposal of this weapon, in accordance with RUC policy at the time. He had no connection to Special Branch and was not involved in the deactivation of the Browning 9mm pistol. When interviewed by my investigators, he could not offer any information that assisted this investigation. I have already commented on the RUC policy of disposing weapons linked to unsolved murders in the main body of this public statement.</p>
	<p>Were any of the police officers linked to the disposal of the VZ58 rifle subject to investigation by Lord Stevens or were they subject to a report to the DPP by Lord Stevens?</p>
21.	<p>The police officers who were involved in the disposal of the VZ58 rifle were not subject to investigation by Lord Stevens.</p>

	The Vehicles
22.	The families raised a number of allegations, questions, and concerns regarding the vehicles that were used in the attack.
	Vehicle 1 – RIJ 9090
	Was CCTV footage at Carryduff Auctions ever recovered and viewed by police to establish the identity of the purchaser of the Ford Escort?
23.	There is no reference in the RUC investigation papers to CCTV enquiries having been conducted at Carryduff Auctions. There were, however, witnesses and other evidence that identified the buyers of the vehicle to police. My investigators spoke to an employee who had worked at Carryduff Auctions in and around the time of this incident. He told my investigators that he was certain there was no CCTV at the premises in 1992 as he himself had been responsible for the installation of the first camera at the site in and around March 1996. Even at that time, the camera only covered a certain area of the office and not any public, customer sales, or auction areas.
	A witness, who phoned and gave their name to police, provided a description of the driver of R1J 9090 that they sighted on the Stranmillis Embankment between 12:30pm-1:00pm. The witness was shown photo albums but was not called to view an Identification Parade.
24.	My investigators viewed no RUC documentation to indicate that this witness viewed photo albums or attended an Identification Parade. My investigators sought to interview the witness but they chose not to assist with this investigation.

	A caller to police stated that the vehicle was observed in Sunnyside Street at 11:40am. The same caller also observed it at 11:55am on Stranmillis Road with three males on board. Did this witness ever view photo albums or attend an Identification Parade?
25.	This investigation established that it was not the same witness who saw the vehicle on Stranmillis Road as observed it on Sunnyside Street. Neither witness viewed photo albums nor attended an Identification Parade. My investigators attempted to trace and interview the two witnesses; one of them was deceased and the other could not be traced.
	The families require explicit confirmation as to the court records which provided an alibi for Person 8.
26.	Person 8 was known to have been involved in purchasing the vehicle from Carryduff Auctions. He had an alibi for the attack as he was in Crown Court at the relevant time. The Crown Court Log for 5 February 1992 recorded that proceedings were in progress between 10:35am-12:35pm, and again between 2:10pm-3:00pm on the relevant date. Having been remanded for the duration of the trial, Person 8 would therefore have been in court at the time of the attack.
	Did the seller of the car report to the DVLA that he was no longer the owner?
27.	My investigators conducted enquiries with the Driver and Vehicle Licensing Agency (DVLA). These confirmed that no records existed in respect of vehicle RIJ 9090. There are two possible reasons for this. (1) There had been no activity in respect of the relevant registration number for a considerable period of time and it had 'fallen off' their database. (2) That when records were transferred from DVLA Coleraine to DVLA Swansea in 2014, the relevant details may not have been

	transferred due to system failure or the age of the record. All paper records held at DVLA Coleraine were destroyed following the transfer.
	This vehicle was noted by police at 12:40pm as ‘suspicious’ on the Stranmillis Road. Given that 20 murders had taken place in South Belfast the previous year, a car with three males in it, considered by police as ‘suspicious’ should have been required to stop. Failure to stop the car displayed an element of incompetence. Who were the police officers told the vehicle was registered to? Did the officers state who was in the vehicle?
28.	My investigators identified the two police officers in question and one of them, Police Officer 28, assisted this investigation. He stated that <i>‘We were on Balmoral Avenue I think it was when I saw a vehicle in front of us with three men in it. I only saw the back of their heads. The one in the back had very short hair. I thought they looked edgy/dodgy. I will clarify, there was a threat against ourselves in those days and we had to know what was about us. I honestly can’t remember what type of car it was or what the registration number was but it was strange, ‘YOI’ or something like that. I checked out the car. I went on the radio and asked something like “Can you check such and such a vehicle?” The only info I got back was “The vehicle is clean.” I didn’t get a registered keeper or anything like that. Just it’s clean. We let the car drive away we drove away as we had other duties.’</i> Police Officer 28 became aware the following day that this car had been involved in the attack. He made CID aware of the fact he had seen the car the previous day and, although he viewed photographs, was unable to make a positive identification given he had only seen the back of the men. Police Officer 28 explained that he did not stop the car as he had no legal entitlement to do so, he was in plain clothes in an unmarked car, and furthermore the car was <i>‘clean.’</i> He stated that if there had have been something untoward about the car he would have asked uniformed colleagues to stop it. Police Officer 28 added that <i>‘If someone is suggesting that any</i>

	<i>skullduggery was going on surrounding the car I can only say that I'm glad I checked it out as I surely wouldn't have if there was any skullduggery going on.'</i>
	Who was RIJ 9090 car registered to? Was there a change of owner slip?
29.	As previously stated, the DVLA have no existing records for this vehicle. However, an examination of the Command & Control log for the attack indicated that, by 2:55pm, police were aware of the previous owner's details. They spoke with the previous owner and quickly established that the car had been sold recently at Carryduff Auctions. Police then spoke later that afternoon with auction staff who had been involved in the sale of the vehicle.
	Was the seller ever considered by police to be a suspect? If so, was he placed on an Identification Parade?
30.	The previous owner of the vehicle was interviewed by police and provided a statement. It was established that he had sold the car at Carryduff Auctions. My investigators reviewed the relevant RUC investigation papers. They contained no evidence, or other information, to suggest that he had been involved in the attack. Police did not regard him as a suspect.
	What time did Person 13 phone police regarding suspicions about the vehicle in Bladon Drive?
31.	Person 13 observed the vehicle parked on Bladon Drive on the day of the attack and, then later that same afternoon, saw a man walking towards it. Person 13 approached this man and asked him if he owned the car and he confirmed that he did. The man then got into the car and drove away. Only later that evening did Person 13 realise the significance of this car and reported his suspicions to police at 9:20pm.

	The families wished to see the photographs taken of the vehicle on Bladon Drive to determine which way it was parked.
	Vehicle 2 – YIA 6097
	The families asked whether the two cars used in the attack were destroyed or retained. This would be relevant for the modern application of DNA evidence. If destroyed, who authorised this decision and why? Did the car still exist for the purposes of DNA swabbing and modern forensic interrogation? Was the car tested for Cartridge or Firearms Discharge Residue?
32.	Person 21 was the owner of Ford Escort YIA 6097. It had been hired from him prior to the attack and he received it back approximately six weeks afterwards. Person 21 was interviewed by my investigators and confirmed that he received the car back from police. The Ford Escort was not retained by PSNI. My investigators were unable to establish the precise date of its disposal. Both vehicles were forensically examined at the time they were recovered in 1992. Neither vehicle is available for further forensic testing.
	Does Person 21, the person who hired out the car, have any loyalist convictions?
33.	As part of this investigation, enquiries were conducted in respect of Person 21. I am satisfied that there was no reason to consider this individual as a suspect in the police investigation.
	Who called Person 21 to come and collect the car in the middle of the night? This led to a loss of potential evidence. The continuity of the exhibit had been broken, given that at 9:40pm on 5 February 1992 police were aware that it was connected to the murder car?

34.	<p>Person 9 was arrested twice in the days following the attack. He was initially arrested driving the relevant Ford Escort car by Police Officer 26 for a drink driving offence in the early hours of 6 February 1992. He was taken to Strandtown RUC Station and processed. My investigators interviewed Police Officer 26. He stated that, in the early hours of 6 February 1992, he had set up a VCP with members of the military near the Kings Hall, Lisburn Road, where he stopped a Ford Escort, VRM YIJ 6097. He believed that it was the first vehicle that had come along and, as there were two <i>'leery looking boys'</i> in it, asked military personnel to search the car. He spoke with the occupants and obtained their names as Person 9 and Person 14. He quickly realised that he recognised Person 9 as a suspected loyalist terrorist. He asked them if they had any knowledge of the attack at the bookmakers. This was not because he had been briefed that they were suspected of being involved. Police Officer 26 stated that had he had any knowledge or suspicion that they were involved, he would have arrested them.</p>
35.	<p>Prior to commencing work, he had heard on the news about the attack at Sean Graham Bookmakers. Before commencing patrol, he would have been briefed by the Duty Inspector which would have included any terrorist related incidents. Although he could not remember being specifically briefed on the attack, nor being told of any vehicles or persons wanted in connection with it, the murders would definitely have been discussed during the briefing.</p>
36.	<p>The practice of performing VCP's, both static and mobile, was a regular occurrence and was not in direct response to the attack. Person 21, the owner of the car, was contacted by police who requested that he retrieve it from the Lisburn Road due to it causing an obstruction. The car was not secured/seized by police at the time. Person 9 was arrested only for the drink driving offence as the significance of the vehicle, at that time, was not known.</p>

	What suspects were on the Identification Parade attended by Person 13?
37.	Persons 1, 9, and 18 were on the relevant Identification Parade.
	Who was the 'staff car' registered to?
38.	This information is covered by Data Protection legislation, and I am unable to provide these details. .
	Was it taxed, insured, and had a valid MOT certificate?
39.	These details are not known.
	The families require an explanation as to why the details of YIA 6097 were not circulated as being connected to the murders at the time of Person 9's stop? It must have been known to the RUC at the time of the 11:40pm stop that YIA 6097 was a car of interest to the murder investigation, said information having come into the investigation at the latest by 9:40pm, two hours prior to the stop. This is clear and unequivocal evidence of failure to investigate.
40.	My investigators interviewed the police officer who attended Person 13's home and obtained their first account regarding the vehicle on Bladon Drive. The officer stated that he did not have a radio with him when he saw the witness and that he would have submitted the relevant statement to the incident room the following day. I am of the view that there was a lack of urgency in circulating the details of this vehicle to relevant police. This was consistent with the account given by Police Officer 26, who said that he was contacted by CID the following morning when the significance of the vehicle became known. The failure to promptly identify YIA 6097 as being linked to the murders may have impacted upon investigative opportunities to recover evidence from this vehicle.

	Forensic Strategy
	The families asked that PONI conduct an audit in relation to the management of the forensic material, as they contended that there was ample forensic material to sustain prosecutions, but that this was deliberately mishandled to prevent prosecutions to preserve agent status. Did police pursue all forensic opportunities?
41.	A full forensic review was conducted as part this investigation. I am of the view, given the available evidence and other information, that police conducted most of the relevant forensic enquiries. However, the review identified a failing regarding blood found in the coat pocket of a suspect, that was only compared against the blood of the deceased and not those who were injured during the attack. This may have been significant to the RUC investigation.
	Where, in the car, were the fibres that matched Person 16 seized from?
42.	This investigation established that the relevant fibres related to Person 17, and not Person 16. Three fibres, possibly from a rug in the relevant vehicle, were found on a shirt belonging to Person 17. The scientist who examined the fibres described them as being of <i>'no use evidentially.'</i> The second car had not been at the scene of the shooting. Placing any individual in this vehicle was not enough to place them at the scene of the attack. The fibres were not unique to that vehicle and were, therefore, of limited value.
	The families asked were the sweet wrappers found in RIJ 9090 and in YIA 6097 the same brand of sweets. This was relevant, as it was a further opportunity to provide corroborative links between the two cars.

43.	My investigators reviewed the relevant RUC investigation papers and established that sweet wrappers were only found in one of the vehicles.
	General Evidence Gathering
	Did police obtain video footage from the cameras at H & J Builders Merchant as part of their investigation? If they did not, why not? If they did, what was found and what did they do with their findings?
44.	My investigators conducted enquiries with staff from H&J Builders who indicated that police did make enquiries with them at the time about the possibility of CCTV. There was conflicting information as to why this footage was not available. There was an account contained within the relevant police documentation that the CCTV was not working due to a blast bomb attack the night before the murders. My investigators interviewed a member of staff who confirmed this, adding that the cameras were only for monitoring purposes and did record. This witness added that, following the attack, police conducted CCTV enquiries at the business.
	Family Contact
	Were the families properly and promptly informed of all investigative developments?
45.	Police Officer 10 stated <i>that 'At that time there was no formal policy in relation to family liaison and was only introduced post the Stephen Lawrence review in around 1998. I recall that I charged two individuals for the murder at Sean Grahams and to the best of my knowledge the families of the victims were informed of that development.'</i>
46.	In the past, Family Liaison was significantly different to the current service provided to bereaved families. It was the responsibility of the

	<p>SIO to engage with the family at an early stage of the investigation. However, after this there was no structured contact system in place unless a significant development occurred. No formal guidance or bespoke training existed. This changed following the murder of Stephen Lawrence in London on 22 April 1993. A public enquiry into Stephen's death highlighted significant failings in the police investigation, including the manner in which police communicated with the Lawrence family.</p>
47.	<p>The enquiry, headed by Sir William MacPherson, stated '<i>That Police Services should ensure that at a local level there are readily available designated and trained Family Liaison Officers.</i>' It added that, where possible, such officers should be dedicated primarily, if not exclusively, to the role.</p>
48.	<p>The MacPherson recommendations laid the foundations for modern-day Family Liaison which lies at the core of any SIO's Investigation Strategy. The deployment of specialist trained officers to bereaved families is an important investigative tool as well as ensuring the SIO can communicate effectively with them and provide, as well as acquire, information, in a timely, accurate, and empathetic manner.</p>
	<p>The families also wished to complain that the bereaved families were not informed of the retrieval of the 9mm, the arrests of Person 5 and Person 6, and their subsequent trials. Who in RUC made that decision?</p>
49.	<p>My investigators could find no rationale, within the relevant RUC investigation papers, as why this information was not shared with the families. The relevant SIO chose not to assist with this investigation.</p>
	<p>Suspect Strategy</p>
50.	<p>The families make a number of allegations in respect of an individual the relevant HET report identified as Person 10.</p>

	Was Person 10 working for any branch of the intelligence services?
51.	The Police Ombudsman will neither confirm nor deny whether any individual was an informant.
	Person 10 was observed in the Sierra (referred to as the UDA staff car OIJ 8686) the day before the attack with the person HET referred to as Suspect 1. Where and why was it stopped?
52.	On 4 February 1992, Person 17 was sighted on Finaghy Road North in Ford Sierra OIJ 8686 with passengers Person 10 and Person 22. The car was stopped and searched but nothing of note was found. It is not known why this vehicle was stopped on that particular date.
	Person 10, referred to by the HET as a '<i>dangerous and unstable loyalist</i>,' was not arrested despite having been detained six weeks earlier on suspicion of the murder of Aidan Wallace. The same Browning 9mm pistol was used in both attacks. Why was he not arrested? Was his photograph shown to witnesses?
53.	This issue is addressed in the main body of this public statement. Person 10 was neither arrested nor interviewed in relation to the attack at Sean Graham Bookmakers. He was never included in any photo suspect albums shown to witnesses. He was never treated as a ' <i>person of interest</i> ' during the RUC investigation. I am of the view, given the available evidence and other information available to police at the time, that reasonable grounds existed for his arrest.
	Could Person 10, as a person of interest, have had his fingerprints checked against the extant prints recovered during the RUC investigation?

54.	This investigation requested that these checks were made and the results were negative.
	Was the person who provided the intelligence that led to the recovery of the VZ rifle a suspect, or was it Person 10 or an associate of Person 10?
55.	The Police Ombudsman will neither confirm nor deny whether any individual was an informant.
	Why were the loyalists stopped in the second getaway car never prosecuted?
56.	Person 9 and Person 14 were stopped in this car. Person 9 was initially charged with the murders, but these charges were later withdrawn. In respect of Person 14, there was no evidence, including forensic and witness evidence, to link him to the attack. He was stopped in the relevant vehicle in the early hours of 6 February 1992, but this was insufficient to merit his arrest. It is noteworthy that blood located on a coat belonging to him was compared against the blood of the deceased, but not the injured. I am of the view that this was a significant investigative failing as, had the blood of injured persons been found on the coat, this may have linked him to the scene of the attack.
	Person 5 and Person 6 were not referred to in the HET report as suspects. Indeed, notwithstanding the fact that they were arrested in possession of the Browning 9mm pistol and a Webley revolver on 6th May 1992 (less than 3 months after the murders), they were not even questioned about the murders. They were not even cautioned for murder, in circumstances where Person 15 was charged, by virtue of his possession of the VZ58.
57.	My investigators reviewed the relevant RUC investigation papers and confirmed that Person 5 and Person 6 were questioned about the Sean

	<p>Graham Bookmakers attack. My investigators asked Police Officer 10 why they were not charged with the murders. Police Officer 10 stated that this may have been due to the time that had passed between the murders and the date when they were found in possession of the weapon. Police were not in receipt of any evidence or intelligence that either Person 5 or Person 6 were involved in the Sean Graham Bookmakers attack.</p>
	<p>The families believe that the evidence of Person 12 should have been given at court and it should have been the court who assessed his credibility, not the RUC. Person 12 positively identified Person 9 as being one of the gunmen. The families consider that the charges (murder) against Person 9 being dropped is evidence that his informant status was being preserved and enhanced.</p>
58.	<p>The Police Ombudsman will neither confirm nor deny whether an individual was an informant. Police forwarded a file of evidence regarding Person 9 to the DPP. My investigators reviewed this file. I am satisfied that it accurately reflected the evidence against Person 9. The DPP subsequently directed 'No Prosecution' against this individual.</p>
	<p>Was Person 9 placed on an Identification Parade before Person 13?</p>
59.	<p>Person 9 did take part in an Identification Parade. Person 13 did not make a positive identification during this Identification Parade.</p>
	<p>Why was Person 9 arrested at 1:00am on 6 February 1992? Was he charged? Who were the arresting officers?</p>
60.	<p>Person 9 was arrested for a drink driving offence by Police Officer 26. My investigators interviewed Police Officer 26 and recorded a witness statement from him. He believed that Person 9 was reported for the</p>

	relevant offence, but he did not prepare the relevant file of evidence for the DPP. This investigation was unable to locate this file of evidence.
	The families require confirmation as to the reason why Person 9 was arrested at 1:00am on 6 February 1992, having been stopped and allowed to continue on his way an hour and 20 minutes earlier on the Crumlin Road. What was the difference in that hour and 20 minutes? The families fear that his arrest that night was a ‘de facto’ opportunity for debriefing by his handlers, and request that this matter be investigated.
61.	The Police Ombudsman will neither confirm nor deny whether an individual was an informant. My investigators sought to speak to the officer who stopped Person 9 on the Crumlin Road but he chose not to co-operate with this investigation.
	A witness contradicted Person 9’s alibi in that they saw him with a large holdall on Sunnyside Street. What time did the witness provide this information to police?
62.	My investigators examined Person 9’s account of his movements. The witness account correlates roughly with the account provided to police by Person 9. The witness account does not undermine or contradict the version of events provided by Person 9. Notwithstanding this, police conducted house-to-house enquires following this witness account. No information of significance was obtained.
	The families believe that Person 14 was not charged as the blood found on his coat was not compared against the blood of the deceased. However, was the blood compared against the blood of any of the survivors? There was further evidence against Person 14, in that he hired the secondary getaway car with Person 9.

63.	This investigation found no record that the blood found on the coat had been compared against the blood of those injured in the attack. I am of the view that this would have been a reasonable line of enquiry to conduct and, therefore as stated above, was an investigative failing.
	Person 16 bought the actual murder car (RIJ 9090) and was picked out by the person who sold it. Three fibres attributed to him were found in the second getaway car (YIA 6097) yet he was not charged? The families seek to complain specifically about this, as they fear he was protected from prosecution.
64.	This investigation identified no evidence that Person 16 purchased VRM RIJ 9090. The RUC investigation established that Person 8 purchased the car, accompanied by Person 17.
	The families wish to know if suspects were properly pursued and interviewed by the police.
65.	This investigation established the rationale for police not arresting Person 10. I am of the view that there was a delay in arresting a number of identified suspects who the SIO was informed had been in West Belfast since the attack. The alibi account of Person 1 was unsubstantiated in parts. I am of the view that this should have been tested more robustly by police and I consider this to be an investigative failing.
	Witness Strategy
	The families alleged that the direct eye witness evidence of Person 12 was disregarded by the RUC instead of being evaluated by a court.
66.	Person 12 was near the scene when the attack took place. He went to an upstairs window and observed two hooded individuals leave the

bookmakers and run across the Ormeau Road onto University Avenue. Halfway across the road, one of them started to remove his hood, before running towards a maroon-coloured Ford Escort with a partial VRM, 'RIJ.' Both individuals then got into the passenger side of the car. He described the man who removed his hood as 5'7" tall, stocky build, with short, neat, dirty fair hair with 'blonde highlights.' The second individual did not remove their hood but was 6' tall and of leaner build. Person 12 did not observe any weapons but subsequently identified Person 9 during an Identification Parade as the man he saw removing his hood.

67. This allegation was a reference to discrepancies highlighted by Police Officer 10 to the DPP, specifically in relation to conflicting descriptions between Person 12's initial statement and his subsequent identification of Person 9. It is correct that aspects of Person 12's evidence were considered problematic, described by Police Officer 10 as follows:

'It is immediately acknowledged that this witness has recorded in his statement a number of facts with which defence counsel will no doubt endeavour to exploit...'

- a. *'His opinion that the vehicle was 'maroon' rather than 'blue.'*
- b. *His comment, 'I didn't really get a look at his face.'*
- c. *'I never seen any guns at any time.'*
- d. *'Person 9 could by no means be described as stocky. He is of athletic build.'*
- e. *'His viewing was made from above and behind.'*

There were inconsistencies that the SIO was obliged to highlight as they could have undermined the prosecution case and would have been challenged by the defence. Police Officer 10 highlighted obvious discrepancies between Person 12's original account and his subsequent identification of Person 9. Such discrepancies would have been obvious to both the prosecution and the defence. This

	investigation has identified no evidence that this was a deliberate attempt by police to undermine the credibility of Witness 12. Ultimately, it was the DPP who withdrew the charges against Person 9.
	How many of the suspects were in the Identification Parade attended by Person 13? Was Person 16 in the lineup?
68.	Person 13 viewed Identification Parades containing Person 17, Person 9, Person 1, and Person 18. No positive identifications were made. Person 16 was never arrested and did not take part in any Identification Parades.
	The families require clarification of who took part in the Identification Parades.
69.	Persons 1, 9, 17, 18, and 19 took part in Identification Parades.
	The families want to make a complaint as to the fact that no ID parade was held at all in relation to the suspected driver of the murder car RIJ 9090. This is absolutely incredulous in the context of this case, and further motivates the complaint of failure to investigate.
70.	A number of Identification Parades were held during the police investigation. I am of the view, given the available evidence, that all identified suspects were viewed by the relevant witnesses. I am also concerned about the lack of Identification Parades in some circumstances, as per my comments in Chapter 12 of this public statement.
	<i>Were the police aware of any UDR collusion in these murders? If so, why were no members of the UDR convicted of involvement in the murders?</i>

71.	This investigation has identified no evidence that members of the UDR were involved in the attack.
	Did any of the loyalists detained or arrested have any relatives/connections who were members of the UDR?
72.	This investigation considered the above matter. I am of the view, given the available evidence and other information, that it is of no relevance to the RUC murder investigation into the Sean Graham Bookmakers attack.
	On the morning of the shooting, the UDR had set up a patrol at University Avenue, which was very close to Sean Graham bookmakers. There had been a bomb attack the previous night in H & J Builders yard, which was being investigated. These premises are also very close to Sean Graham Bookmakers. The UDR pulled out of the area 20 minutes before the shooting. The getaway car used by the gunmen was parked by the builders yard during the attack. The yard was equipped with surveillance equipment, including high-tech cameras with motion sensors. These cameras covered the space in which the getaway car was parked. The parking space used by the gunmen had previously been occupied by a UDR military carrier which had conducted the vehicle checkpoint. In this area there were very few parking spaces and the families are concerned that there was collusion between the UDR and the loyalist gunmen, which allowed the gunmen to park where they did.
73.	My investigators made enquiries with the MOD as to whether they retained records of VCPs in the relevant area at the time of the attack. The MOD replied that they were unable to locate any records to indicate that UDR patrols were in area between 6:00pm on 4 February 1992 and 6:00pm on 5 February 1992.

74.	My investigators interviewed a number of witnesses who were in the vicinity of Sean Graham Bookmakers in, and around, the time of the attack. None of them recalled a VCP in the area. None of the witness statements recorded during the RUC investigation made any reference to there having been a UDR patrol and/or VCP in the area at the relevant time.
	Intelligence
	Did the police have any prior knowledge of the attack on Sean Graham Bookmakers? If so, how was the intelligence handled and what was done with it?
75.	Issues relating to pre-incident intelligence are addressed in detail in the main body of this public statement. I am of the view that there was no intelligence available to police that could have prevented the attack at Sean Graham Bookmakers.
	Were Person 1 or any other loyalists involved, or arrested, in relation to the attack on Sean Graham Bookmakers Special Branch or military agents or informants at the time of the attack or recruited as informants during their detention, under the terms of the ‘Walker Report’, or other operational procedures, thereby being released without charge?
76.	The Police Ombudsman will neither confirm nor deny whether any individual was an informant.
	The families seek to complain that the key suspects in the case benefited from protection from prosecution by virtue of their status as authorised informers. Specifically, the families allege that Person 8, Person 9, and Person 10 were protected from prosecution.

77.	The Police Ombudsman will neither confirm nor deny whether any individual was an informant.
	Was any intelligence provided to police about the firearms intended to be used at the Sean Graham Bookmakers shooting?
78.	There was no intelligence available to police, prior to the attack that indicated which weapons were going to be used.
	The families alleged that the public comment made by the RUC Chief Constable, “<i>This is murder madness but it is not out of control</i>” was unprofessional and deeply insensitive.
79.	I accept that the families of those murdered and injured in this attack find this comment deeply insensitive. However, I am of the view that this is not a matter that could be investigated as misconduct and, in any event, I am unable to make a determination of the misconduct of a former police officer.
	Was there any intelligence that there was going to be an attack, as it is suspected that Person 4 would have told police?
80.	Issues relating to pre-incident intelligence are addressed in detail in the main body of this public statement. I am of the view that there was no intelligence available to police that could have prevented the attack at Sean Graham Bookmakers.
	Is there information as to who Person 5 and Person 6 were intending to murder?
81.	I am satisfied with police actions in relation to the possession of firearms by Person 5 and Person 6. Having reviewed the available evidence and information, I am of the view that who they may have been intending to

	murder is not relevant to the RUC investigation of the Sean Graham Bookmakers attack.
	It is critical that the relationship between the Force Research Unit (FRU) and Special Branch in relation to agent handling and this weapon (9mm Browning used in the Aidan Wallace and Sean Graham murders) is established, as specifically investigated by de Silva vis-à-vis Person 3 and Person 2.
82.	I will neither confirm nor deny if any individual was an informant. Furthermore, it must be noted that the remit of my Office does not extend to the conduct of the military.
	The families require confirmation as to whether or not Person 8 or Person 9 were Authorised Agents. The families appreciate that this may require a policy decision by PONI however they respectfully propose the case of Jean McConville as authority for departure from the NCND policy, in circumstances where the suspect concerned is deceased.
83.	I will neither confirm nor deny if any individual was an informant.

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